

ALASKA CONSTITUTIONAL CONVENTION

November 21, 1955

FOURTEENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend John C. Stokes, pastor of the University Community Presbyterian Church. Reverend Stokes will give us our daily invocation.

REV. STOKES: Let us pray. Almighty and gracious God, we beseech in earnestness Thy blessing upon this Convention and this day, that all things that are said and done here may be done not only with the knowledge that we are making laws for men by which to live, but that we are living the lives that Thou has given to each of us. We ask Thy blessing upon those who are members of the committees, upon those who rule the sessions and upon those who formulate the ideas. Now grant peace, understanding, love, justice and mercy in all that is done in the formation of the constitution. In the name of our Lord and Master, Jesus Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present. Proceed with the reading of the journal -- that is for this afternoon's session. Dispense with the reading of the journal at this time. Are there any petitions, memorials, or communications from outside the Convention? Reports of standing committees? Mr. Riley?

RILEY: Mr. President, last Thursday or Friday it was asked that the report from the Rules Committee be made a first order of business this morning. Your Rules Committee asks now that that be made a special order of business this afternoon.

PRESIDENT EGAN: Mr. Riley asks that the matter be held over as a special order of business this afternoon. Are there any other reports? First reading of proposals? Are there any proposals that the delegates would like to submit at this time?

PRESIDENT EGAN: Are there other proposals for the Sergeant at Arms to bring forward at this time? If not, the Secretary may proceed with the first reading of proposals.

SECRETARY: "Delegate Proposal No. 9, introduced by Victor Fischer, AN ARTICLE ON EDUCATION, HEALTH AND WELFARE."

PRESIDENT EGAN: Committee on Education.

CHIEF CLERK: There is not a Committee on Education.

PRESIDENT EGAN: Committee on Preamble and Bill of Rights. The proposal is referred to that committee.

SECRETARY: "Delegate Proposal No. 10 introduced by Victor Fischer, INTERGOVERNMENTAL RELATIONS".

PRESIDENT EGAN: That proposal will be referred to Committee No. XIV, the Committee on Resolutions and Recommendations.

SECRETARY: "Delegate Proposal No. 11, introduced by Thomas Harris, LOCATION OF THE STATE CAPITAL."

PRESIDENT EGAN: That proposal will be referred to the Committee, Committee No. VII, Committee on the Legislative Branch.

SECRETARY: "Delegate Proposal No. 12, introduced by Edward V. Davis, PERTAINING TO THAT SECTION OF THE CONSTITUTION RELATIVE TO THE ESTABLISHMENT OF THE JUDICIAL BRANCH OF THE GOVERNMENT OF THE STATE OF ALASKA."

PRESIDENT EGAN: That proposal is referred to Committee No. IX, the Committee on the Judiciary Branch.

SECRETARY: No further proposals, Mr. President.

PRESIDENT EGAN: Those are all the proposals. We are now down to motions and resolutions. Are there any motions and resolutions to come before us at this time?

SECRETARY: "Resolution introduced by Chris Poulsen, LOCATION OF THE STATE CAPITAL."

PRESIDENT EGAN: That resolution will be referred to Committee No. VII, the Committee on Legislative Branch. Are there other resolutions?

SECRETARY: No further resolutions, Mr. President.

PRESIDENT EGAN: Other unfinished business? Are there any special orders of the day? General orders of the day? If not, the Chair would entertain a motion for recess.

V. RIVERS: I move a recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Victor Rivers moves that the Convention stand at recess until 1:30 this afternoon. Is there objection? Hearing no objection it is so ordered and the Convention is at recess until 1:30 this afternoon.

RECESS

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

KNIGHT: Reporting for the Committee on the reading of the journal, this covers the reading of the journal for the tenth day.

PRESIDENT EGAN: We are now proceeding with the reading of the journal of the tenth day.

KNIGHT: We recommend the following changes:

PRESIDENT EGAN: The Committee to read the journal recommends the following changes for the tenth day:

KNIGHT: On Page 2, line 12, after the word "and" insert the word "appointed". In line 15, after the word "and" also put in the word "appointed". On line 15 delete the word "proposal" and place in the word "principle". On Page 3, line 14, delete the word "of". In place thereof put the word "at". On Page 4, the sixth line from the bottom of the page there is a typographical error in the word "remarks".

PRESIDENT EGAN: The Convention will come to order.

METCALF: I don't know what he is talking about.

PRESIDENT EGAN: It is the journal of the tenth day of the Convention, November 17. The Chair does not have a copy. (Received copy at this time.) Mr. Knight, the Chair is sorry to interrupt you but some of them did not have their copies. You may proceed with the reading of the proposed changes.

KNIGHT: Page 4, sixth line from the bottom, typographical error in the word "remarks". That is all the changes. We ask unanimous consent they be adopted.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the corrections brought to the attention of the Convention relative to the journal of the tenth day be adopted by the Convention. Is there objection? Hearing no objection it is so ordered and the journal of the tenth day will be corrected as the Chairman of the Committee to read the journal has requested. Is there anything else to come before the Convention at this time? Mr. Johnson?

JOHNSON: Mr. President, I ask unanimous consent that we revert to the order of business of the Introduction of Proposals.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent to return to the order of business of introduction of proposals. Is there objection? Hearing no objection, you may introduce your proposal, Mr. Johnson. The Secretary may read the proposal.

SECRETARY: "Delegate Proposal No. 13 introduced by Maurice T. Johnson, DEFINING INHERENT RIGHTS.

PRESIDENT EGAN: Defining Inherent Rights -- Committee No. V. The proposal is referred to Committee No. V on Preamble and Bill of Rights. Are there other proposals?

SECRETARY: "Delegate Proposal No. 14, introduced by Maurice T. Johnson, THE EXECUTIVE.

PRESIDENT EGAN: "The Executive?" The proposal is referred to the Committee on the Executive Branch.

SECRETARY: "Delegate Proposal No. 15, introduced by W. O. Smith, TO MAKE PROVISIONS OF CONSTITUTION MANDATORY."

PRESIDENT EGAN: "To make provisions of the Constitution mandatory" would that be, Mr. Smith -- The Committee on Preamble and Bill of Rights? Would that come under that? To what committee would you like to refer that?

SMITH: Mr. President, my sole purpose in introducing this proposal before the Convention was to lay that burden on the President's shoulders.

PRESIDENT EGAN: The proposal will be referred to the Committee on the Executive. Are there other proposals?

SECRETARY: No further proposals.

PRESIDENT EGAN: If there are no further proposals, is there anything else to come before the Convention? Mr. Riley.

RILEY: Mr. President, as a special order of business last Wednesday Mr. Sundborg proposed a motion that would operate to modify Rule 50 as adopted earlier in the session, and that motion was in turn referred for a recommendation to the Rules Committee. Now properly this report should be in two parts, but I will ask the indulgence of the Convention to state the whole proposition in view of the fact that the latter part of our report may bear on the Convention action. The motion which was referred to the Committee for recommendation has received an adverse recommendation. The Committee does not endorse it for adoption. On the other hand, the Committee has determined that Rule 50 could be clarified, its language could be improved, and it does submit for the consideration and adoption of the Convention a redraft of Rule 50. That redraft, it should be clearly stated, does not reflect the terms of Mr. Sundborg's motion which was specifically referred to us. On each desk is a copy of the proposed redraft and any action of course on that would have to await action on the motion which was referred to us.

PRESIDENT EGAN: The question before us at this time is on the motion that was previously made by Mr. Sundborg. Will the Chief Clerk read the motion please?

CHIEF CLERK: "That the rules be amended as follows: In Rule 50, line 2. after the word 'thereon' insert the following: 'any article, other appropriate subdivision or group of articles or subdivisions may be returned to second reading for specific amendment by a vote of at least 28 members. After final action on all portions of the constitution separately.'"

PRESIDENT EGAN: What is the wish of the Convention as regards Mr. Sundborg's original motion? The question is, "Shall Mr. Sundborg's motion be adopted?"

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: All those in favor say "aye" -- Mr. Davis?

DAVIS: Mr. President, I think it will take a two-thirds vote since it is a change in the rules. I think it will have to be a roll call vote.

PRESIDENT EGAN: That is right. The Chief Clerk will call the roll.

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

Ayes: 4 - Buckalew, Collins, Kilcher, Sundborg.

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

Absent: 1 - Doogan.)

BUCKALEW: Mr. President, can I change my vote from "no" to "yes".

PRESIDENT EGAN: You Mr. Buckalew. Your vote will be changed from "no" to "yes". Mr. Smith?

SMITH: Mr. President, I move --

PRESIDENT EGAN: The roll has not been announced.

CHIEF CLERK: Four ayes and 50 nays and one absent.

PRESIDENT EGAN: And so the motion as proposed by Mr. Sundborg

has failed and the rules have not been amended. Mr. Smith?

SMITH: Mr. President, does that leave us in position where the rules stand as they were before this motion was made?

PRESIDENT EGAN: That is right.

SMITH: Then this suggested redraft would be an additional amendment? I will make a motion that the suggested redraft be adopted, although I believe that possibly it would have to call for suspension of the rules again, is that correct?

PRESIDENT EGAN: Mr. Smith moves that the suggested redraft of the Rules Committee as relating to Rule 50 be adopted by the Convention. Is there a second?

TAYLOR: I second it.

PRESIDENT EGAN: Mr. Taylor seconds the motion. The subject is open for debate.

R. RIVERS: Mr. President, I think the Secretary should just read it even though we have it before us and then I will ask for unanimous consent.

PRESIDENT EGAN: Will the Chief Clerk read the proposed redraft?

CHIEF CLERK: "Rule 50. After all proposals which are to be included in the Constitution have been agreed upon the Convention shall refer them to the Committee on Style and Drafting for final arrangement in proper order and form.

When the Committee submits the Constitution in proposed final form for adoption, any part of the document may, by an affirmative vote of at least 37 delegates, be opened for specific amendment by reversion to second reading. Should the proposed document be amended it shall again be referred to the Committee on Style and Drafting. After the report of the Committee, the Constitution in final form shall be adopted by the Convention by the affirmative vote of at least 28 delegates."

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, so that our record may be clear on this, I wonder if I may have the indulgence of those who have put the motion, to rephrase it in this way. I move that we strike Rule 50 as it now appears in the rules and in lieu thereof insert the following, and then the text of what has been read by the Chief Clerk.

PRESIDENT EGAN: Mr. Smith, would you object?

SMITH: No objection.

HERMANN: I would like to ask unanimous consent to put a comma after the word "upon" in the second sentence.

PRESIDENT EGAN: If there is no objection then Mr. Smith's original motion will be worded to state that Rule 50 as it now appears in the permanent rules be deleted and that the suggested redraft as proposed by the Rules Committee of Rule 50 be inserted to take its place. Unanimous consent has been asked that the suggested redraft contain a comma after the word "upon" in the second sentence. The question is open for discussion. If there is no discussion, the Chief Clerk -- Mr. Kilcher?

KILCHER: I think the point of clarification on this subject and for the record some remarks pertaining to the change would be in place. I would like my fellow delegates to observe that in essence Rule 50 has not been changed. The wording in some respects is clearer now, as the first sentence indicates, we don't deal in the first sentence any more with a framed constitution but with an amount of separate proposals. But the 37 votes, the majority of 37 votes required, to amend any of the separate proposals is in essence the same thing as we had before. Here it is spelled more explicitly, but actually this 37-vote majority is the normal majority required to suspend rules, so in essence the situation is the same as it was a week ago. Actually, I do not see why we should go through the motions of adopting this new redraft of Rule 50 unless we also go into a further matter for the record's sake as to the essence of Rule 50, which I last week have tried to change. If I am correct, my objective last week in bringing up this matter was mainly to have the separate proposals considered separate, to make them subject to a straight majority amendability if the need arises, if there should be a substantive conflict, etc. Now there seems to be a possibility to reach the very same objective in another manner through the act of rescinding. Now, if I am wrong, I would like to be corrected. If I understand correctly, any change in a proposal at any time could be effected by reverting to rescinding, and rescinding with given notice would only require a straight majority vote, so actually the objective that I was trying to reach last week can be reached within the rules themselves as they were all along.

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

MCLAUGHLIN: I move the previous question.

PRESIDENT EGAN: Mr. McLaughlin moves the previous question. Is there a second?

BUCKALEW: I second it.

PRESIDENT EGAN: It has been moved and seconded that the previous question be ordered.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that the previous question be ordered.

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard. All in favor of moving the previous question will say "aye", all opposed, "no". The ayes have it. The previous question is ordered. The question is, "Shall the suggested redraft of Rule 50 take its place in the permanent rules in lieu of the present Rule 50 of our permanent rules?" The Chief Clerk will call the roll.

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

Ayes: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 7 - V. Fischer, Harris, Hermann, McCutcheon, McNealy, McNees, Metcalf.

Absent: 1 - Doogan.

CHIEF CLERK: Forty-seven ayes, seven nays, and one absent.

PRESIDENT EGAN: And so the suggested redraft of Rule No. 50 as proposed by the Rules Committee has become a permanent part of the rules. Mr. Sundborg?

SUNDBORG: I move and ask unanimous consent that purely in the interest of uniform form that the new Rule 50, when it is typed into our rules, be typed all in one paragraph and not be broken down into two as it is in the draft which is before us. That would be uniform with the rules which we already have. There are no two-paragraph rules any place else.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? If there is no objection the Secretary is ordered to draft Rule 50 as if it were one paragraph. Is there further business to come before the Convention? Mr. Smith?

SMITH: Mr. President, I would like to ask unanimous consent to revert to committee reports.

PRESIDENT EGAN: Mr. Smith asks unanimous consent to revert to committee reports. If there is no objection you may proceed, Mr. Smith.

SMITH: The Committee on Resources would like to request the services of Ernest R. Bartley and Vincent Ostrom, and I think it would be pertinent to ask the Secretary to make a statement on the qualifications of these men at the appropriate time.

PRESIDENT EGAN: Then you have heard the request of the Chairman of the Committee on Resources. He requests the services of Ernest R. Bartley and Vincent Ostrom for aid in the research work that is necessary in the Committee on Resources. The request will be taken under advisement by the President and the Secretary of the Convention, if that is the wish of the Convention. Mr. Hellenthal.

HELLENTHAL: Mr. President, Committee No. VI on the Elections, Suffrage and Apportionment will hold what may be the first of a series of public hearings at 11 o'clock Saturday morning, next Saturday, and we ask that the delegates take note of that and that appropriate publicity be given of the fact through the office of the Secretary.

PRESIDENT EGAN: You have heard the announcement of the Chairman of Committee No. VI. The hearing will be in Convention Hall in this room. The public hearing that Mr. Hellenthal is speaking of.

HELLENTHAL: No, Mr. President, it was our intention that the Committee hearing be held in the regular meeting place, and should sufficient people appear there it will be recessed to a larger meeting place if the need develops.

TAYLOR: Just for a point of information, I would like to ask what particular matter would be brought up at this time?

HELLENTHAL: Any matters pertinent to the jurisdiction of the committee.

PRESIDENT EGAN: Public notice will be given. Miss Awes?

AWES: Committee No. V, the Committee on Bill of Rights will also hold a public hearing on Saturday and it is scheduled for 9:30 in the regular committee room. Also, the Committee will not meet tomorrow but again Wednesday at the regular time.

PRESIDENT EGAN: You have heard the announcement of Miss Awes. Mr. Sundborg?

SUNDBORG: Committee No. III on Style and Drafting would like to request that the services of Mr. Jack McKay be requested for the duration of the Convention and specifically that the Legislative Council be asked to assign Mr. McKay here with the Legislative Council to bear his salary but the Convention to pay his per diem.

PRESIDENT EGAN: You have heard the request of Mr. Sundborg. If there is no objection the President and the Secretary will ask that Mr. McKay be assigned here for the duration of the Convention. Mr. McNees?

MCNEES: May I ask if that was for the use of the Convention at large?

SUNDBORG: Yes. We know we will want him to some extent for the Committee on Style and Drafting, but our thought was that we don't need him just yet and do not know just yet and we don't know yet until the substantive committees begin to get further along with their proposals, when we will need him, but we think the whole Convention should have the advantage and use of his services.

PRESIDENT EGAN: If there is no objection the Legislative Council will be notified at the request of the Convention to have Mr. McKay here. Mr. Robertson?

ROBERTSON: Mr. President, I have a question to ask along the subject I was discussing with you this noon. Possibly Mr. Riley of the Rules Committee could tell me. What is the procedure if the proponent of a proposal desires to propose an amendment to the proposal other than to bring it simply before the committee itself so that it would come to the attention of all members that proposed amendments?

PRESIDENT EGAN: It would seem to the Chair that you would have to go before the committee, but, Mr. Riley, as Chairman of the Rules Committee, have you taken that particular question into consideration?

RILEY: Mr. President, I don't believe it has arisen any time up to now, certainly not in any committee meetings I have recalled. It would seem one possible solution would be to simply put in another proposal on the same general subject matter which in turn would get it before the same committee which is considering the earlier basic proposal.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I have an idea along that line. I think it was used in the legislature for many years. It is the fact that the bill is in committee now, in the Judiciary Committee. The fact that it is in there, the committee can amend that bill

and report it in as a committee amendment or rewrite the proposal and call a committee substitute for Mr. Robertson's proposal. I think it can be left up to the committee to take care of those particular --

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. Chairman, is there any reason why the author of a proposal cannot amend it himself in second reading after it comes out on the floor?

PRESIDENT EGAN: There is no reason why he could not attempt to do so Mrs. Hermann. There is also no reason, the Chair would feel, why the maker of the proposal might not ask unanimous consent or move to have the proposal withdrawn. Is there further discussion? Mr. Secretary do you have something? The Secretary states that the Committee on Administration has completed its arrangements for having new chairs and tables for the delegates' pleasure here in Convention Hall and that they plan to make this change immediately following the adjournment this afternoon, and if the delegates are around and wish to choose their various seats they are welcome to do so after the change has been made. Mr. Ralph Rivers.

R. RIVERS: Mr. President, the Judiciary Committee is going to meet at the TV station at 4 o'clock today, and I thought perhaps Mr. McLaughlin, our Chairman, would like to tell about transportation or such.

PRESIDENT EGAN: Would you like to comment, Mr. McLaughlin?

MCLAUGHLIN: There will be a rump session of the Committee on the Judiciary immediately after the adjournment of this session. Transportation is available to members of the Committee if anyone desires to go downtown immediately.

PRESIDENT EGAN: Mr. McLaughlin, you will appear on Channel 11 at 4 p.m.? Mr. Nerland, did you bring out that TV set?

NERLAND: Yes, it is all set up upstairs.

PRESIDENT EGAN: If any delegates who are still here wish to view the Committee on the Judiciary on television beginning at 4 o'clock this afternoon, Mr. Nerland has been kind enough to bring a television set out for the delegates. Mr. Coghill?

COGHILL: It might be well to point out that the Committee on Convention Administration made the proposal in their first report for the chairs and tables, and it was the wish of this Committee to have it brought before the floor as to whether they want the chairs and table arrangement placed in the Convention Hall this afternoon. I don't believe that was followed through after your announcement.

PRESIDENT EGAN: Mr. Coghill, the Chair has stated to the members it was going to be done. The Chair did not hear any objection. The Chair would feel the Convention delegates are practically unanimous in their feeling for that change. Is there anything further to come before the Convention at this time? Mr. Sundborg?

SUNDBORG: I notice that some new equipment has appeared before us today, the soundscribing equipment. I take it this is the permanent equipment for which we arranged. I notice too, that Mr. Carozza of the company that installed the equipment at our request, is here. I wonder if we might request that he explain to us just how it works and what he would like us to do when speaking if we're not doing it right and subjects of that kind?

PRESIDENT EGAN: You have heard the request of Mr. Sundborg. Is there objection? Mr. McNealy?

MCNEALY: I would move that we revert to a Committee of the Whole for the purpose of hearing Mr. Carozza.

PRESIDENT EGAN: Mr. McNealy asks unanimous consent that we revert to a Committee of the Whole for the purpose of hearing Mr. Carozza explain the ramifications of the new equipment. Is there objection? Hearing no objection then the Convention will resolve itself into a Committee as a Whole. Mr. McNees?

MCNEES: I would like to make one comment here today. Day after day in this afternoon session we are losing an important portion of our own committee time due to the fact that we must adjourn on schedule so that they can go into an additional committee.

PRESIDENT EGAN: Is there objection to resolving the Convention into a Committee of the Whole for the purpose of hearing Mr. Carozza? If there is no objection the Committee is resolved to a Committee of the Whole. Mr. Hilscher, will you take the Chair please?

COMMITTEE OF THE WHOLE

(At this time the Committee of the Whole met. Mr. Hilscher presided.)

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

KILCHER: Unless it is entirely out of order or unless the Committee on Style and Drafting or somebody else has objection, I would make a suggestion to the Chair, as in the case of the Mr. Rivers, and with Mr. Hilscher, that we all four be called by our first names. If I am not wrong, the Chair awhile ago has called Mr. Kilcher, "Mr. Hilscher".

PRESIDENT EGAN: Hereafter the Chair will call Mr. Hilscher and Mr. Kilcher by their first names also. Mr. Hellenthal?

HELLENTHAL: I move we adjourn until the regular time tomorrow morning at 9 o'clock.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow morning. Is there objection? Mr. McNealy?

MCNEALY: Mr. President, I would like to announce immediately after recess Committee No. IV on Ordinances will meet.

PRESIDENT EGAN: The Convention will stand adjourned until 9 o'clock tomorrow morning.