

ALASKA CONSTITUTIONAL CONVENTION

January 7, 1956

FORTY-SIXTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend John Stokes of the University Community Presbyterian Church at College. Reverend Stokes will deliver the daily invocation.

REVEREND STOKES: Let us pray. Almighty Lord, Father of all mankind, we thank You for the new opportunities which You present to us in this new day. To these framers of the constitution of the State of Alaska, grant great faith, high ideals and good health that this document may be a testimony to Thy grace in the affairs of men. In the name of Jesus Christ Our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. Does the Committee to read the journal have a report to make this morning? Mr. Doogan.

DOOGAN: Mr. President, I have journals from the 39th day through the 42nd day to report.

PRESIDENT EGAN: Mr. Doogan has the journals from the 39th day through the 42nd day to report.

DOOGAN: On the journal for the 39th day, in the title of the journal "Thirty-Nine", strike the "e" on page 3. In the first paragraph after the recess insert in the second line after "vice president of" insert the words "student body of the". On page 5 in the first paragraph after recess, in the second line, strike the word "part" and substitute "another group"; strike "the" before "sophomore"; strike "classes" and substitute "students". Journal for the 37th day, page 1, second paragraph, change the "e" to "a" in the name of Chaplain. Journal for the 38th day, page 1, paragraph 2, insert "the Reverend" before "Robert". On page 9, fifth paragraph from the bottom of the page, strike the first "p.m.". Journal for the 40th day, page 1, delete "o'clock" in the first paragraph. Page 3, 6th paragraph, strike "5" and insert "15". Page 6, first paragraph AFTER RECESS insert "to" after "moved". Page 9, second paragraph AFTER RECESS after the word "to", insert the following: "the

first sentence in the amended". Page 12, insert "AFTER RECESS" after paragraph 5, calling the recess. Page 19, first roll call, change "27 yeas" to "25 yeas". Second roll call, change "25 yeas" to "27 yeas". For the journal of the 42nd Convention day, page 1, next to the last paragraph, insert a period after "gallery" and strike the rest of the sentence and substitute the following: "The Alaska Road Commission District Engineer from Nome, Mr. Frank Morris and Mrs. Morris were introduced." Page 3, third paragraph from the bottom of the page, strike "himself and announced" and substitute "the earlier announcement of said vote by announcing". Second paragraph from the bottom of the page, third line, insert "portion of that" at the end of line. Last paragraph, strike "voting on"; insert comma after "recess". Page 5, third paragraph from the bottom of page, third line, strike "H."; insert "Ralston" before "A". Page 6, third paragraph from the bottom of page, change "wishes" to "wished". Second paragraph from the bottom of page, second line, strike "of" and substitute "on". Those are all of the corrections and I ask that the journals from the 37th day through the 42nd day be approved as amended.

PRESIDENT EGAN: Was that from the 37th day or the 39th day?

DOOGAN: Beginning on the 37th day.

PRESIDENT EGAN: You have heard the unanimous consent request from Mr. Doogan that the journals from the 37th day through the 42nd day be approved as amended. Mr. Boswell.

BOSWELL: In looking over the journals I note that there is never any reference to the time that the plenary sessions adjourn, and it seems to me that should be an important part of the record.

CHIEF CLERK: That came up once before and it was the feeling of the Convention that when we were having committee meetings that they did not want to say that they adjourned at 10 or 11 o'clock in the morning, although they were working the rest of the day, but, if that is the feeling of the body, I'll be glad to put it in, but that is the reason why it was left out.

BOSWELL: It would seem that whenever we are in a committee of the whole they should state when we start and when we finish. You can look at this journal and you can't tell where something has had a half hour's or a day's consideration.

CHIEF CLERK: You mean each time there is a recess you want the time?

BOSWELL: No, just when it's something special.

PRESIDENT EGAN: The Chair would feel that the journal should show that the Convention adjourned at a certain time until a

certain time, from now on.

DOOGAN: I ask unanimous consent for the approval of those journals.

PRESIDENT EGAN: Mr. Doogan asked unanimous consent that the journals of the 37th through the 42nd days be approved as read and corrected by the special Committee to read the journal, that they be adopted by the Convention. Is there objection? If there is no objection it is so ordered and the journals are ordered adopted. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? Mr. Robertson.

ROBERTSON: Mr. President, in accordance with my motion yesterday, I moved for a reconsideration of my vote upon the question submitted by Mr. Hilscher's proposed amendment in line 24, Section 13, page 4, whereby we deleted the words "two hundred and fifty dollars" and inserted the words, "a sum set by law".

JOHNSON: I second the motion.

PRESIDENT EGAN: That motion then puts the question before us and the question is, "Shall this amendment deleting the words "two hundred fifty dollars" be deleted from Section 13, line 4, and the other words inserted in their place?" Mr. Robertson.

ROBERTSON: I voted on the affirmative yesterday on this proposed amendment. I don't think I realized the possible detrimental effects of the amendment if put into effect. I reached a conclusion shortly after I cast my vote and I talked to a number of the proponents to the amendment later about it, and I concur with them that this would be tantamount to removing the right to trial by jury, and I think we should have a fixed amount left there. Whether or not it should be \$250 or some other sum, I don't know, but that was my thought in mind. I move for reconsideration of the question.

PRESIDENT EGAN: Mr. Robertson, if the Chair may, when you said it would be tantamount to removing the right to trial by jury, you meant in suits of common law?

ROBERTSON: That is correct, Mr. President. Of course, the legislature might not ever set any amount or it might set an amount so high that we ordinary people might not ever have an opportunity to have a trial by jury in any suits on which we would be interested in.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think that the body should seriously reconsider this if they voted in the affirmative because this is our bill

of rights and we are not protecting the people in the bill of rights at all, we are leaving it up to the legislature. It is a novel innovation. In the Federal Constitution, the reason they put \$20 in there was because they wanted to protect the people. If \$250 depreciates and does not amount to anything, why certainly the constitution will have to be amended, but we have got to give the people a right to trial by jury. The only way to do it is to write the amount into the constitution. I think it will be embarrassing to the people of Alaska if we send this constitution off and don't protect the people, absolutely, no matter what the sum is. I would rather see \$2,500 in there rather than leave it up to the legislature. It doesn't matter to me just so it is some reasonable figure, and I think \$250 is a nice round figure to start off with.

McLAUGHLIN: Mr. Robertson, you have no objection if this is reconsidered to making amendments as long as it is a fixed sum, is that right?

ROBERTSON: That is right.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, a fixed sum is just exactly what we should not have. That is not a constitutional matter. The fact that there was a fixed sum in the Federal Constitution, \$20 and it had to be amended later, proves that this will likely have to be amended later. We are not here to write a constitution only for the purpose of amending it. We are supposed to write an enduring document. This is really a legislative matter. They can change it any time in the future. If you don't figure that the people elected to the legislature will have good sense then, of course, we should write a lot of detailed laws into this constitution, but we are not here to write legislative matters and detailed figures into the constitution. I certainly would not be proud of the constitution we write if we had to do that all the way through it.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, Mr. Barr just made the statement that the figure \$20 had to be amended. It has never been amended to this day. It still says \$20. As a practical matter the litigants often don't claim a jury trial for such small amounts, but that figure is still in the Federal Constitution. I do not agree that this is a legislative matter, and I agree with Mr. Robertson and Mr. Buckalew that the section does not guarantee anything unless you put some fixed sum in there because if you leave it to the legislature they could make it a sum so large that there could never be any case that could come within the provision. That would in effect abolish the right to jury trial.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to inquire how should I vote if I want to put the figure \$250 back in?

PRESIDENT EGAN: Vote "no" on the proposed amendment if you wish to put the figure "\$250" back in. Mr. Kilcher.

KILCHER: Mr. President, the very fact that Miss Awes has corrected Mr. Barr's statement that the \$20 has never been changed should be in favor of the original amendment because it is extremely hard to even change figures in statutes and laws. It is very seldom that they are changed. Legislatures are reluctant to change them, these figures, let alone figures set in the constitution. They are likely to float with us forever and I think that in such a matter we can trust not only the judiciary to give fair justice in small claims but also we can trust the legislature. I don't think that the legislature will ever set a precedent where they will make it impossible for the people to get justice. I don't think any legislature that would dare set an exorbitantly high limit would have a chance of lasting very long, and it would be supplanted by one that would certainly more leave it up to the people's expectations. In this respect I think it is a matter of legislation and of our trust into our future legislature.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, the fact that a dollar figure is set, as I see this, is of no significance whatever as long as the dollar figure set is not out of sight. Miss Awes and others have brought out that \$20 is perhaps an absurd figure today in terms of dollar value, but I don't believe that the depreciation of the dollar has any bearing on the principle involved here. Under this construction a figure must be used. As I see it, it is the principle of preserving and guaranteeing the jury system in a civil case which is at stake and under this construction it is almost essential to set a figure.

R. RIVERS: I am going to support Mr. Robertson's position with the idea of attempting later to amend it to \$300 because our present small claims court setup is based on a \$300 figure. That would be very good, I think.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, a great deal has been said about trust in the legislature. If we had trust in the legislature then why would we need a bill of rights? The bill of rights is to guarantee rights, not to leave them to future legislation.

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

CHIEF CLERK: "Section 13, line 24, strike 'two hundred fifty dollars' and insert 'a sum set by law'."

PRESIDENT EGAN: When we are voting we are voting on that proposed amendment. If you vote "yes" you are voting to delete the sum of \$250 and insert the wording as offered by Mr. Kilcher. If you vote "no" you are voting, in effect, to leaving the wording "two hundred fifty dollars" in the section.

ROBERTSON: Roll call, Mr. President.

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

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

Yeas: 3 - Barr, Kilcher, Lee.

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

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 3 yeas, 50 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: Now, Mr. President, I move that we change "the figure "two hundred fifty dollars" to "three hundred dollars".

PRESIDENT EGAN: Mr. Ralph Rivers moves that "two hundred and fifty dollars" be changed to "three hundred dollars".

MARSTON: I second the motion.

PRESIDENT EGAN: Mr. Rivers moves and Mr. Marston seconds the motion that the figure "two hundred and fifty dollars" be deleted and the words "three hundred dollars" be inserted in lieu thereof.

BUCKALEW: I ask unanimous consent.

TAYLOR: I object to unanimous consent.

R. RIVERS: I so move.

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

BUCKALEW: Question.

ROBERTSON: I think the question is because at the present time we have a limitation in the magistrate's court and it sort of makes it consistent with that amount.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to address a question to Mr. Rivers. The figure \$300, I think, was enacted by the last legislature, and the next legislature may easily raise that figure to \$500. Would it be feasible to leave in \$250 or \$300, if adopted, to put in after dollars a phrase such as "or such other reasonable sum as may be established by law"? I would like to ask you the question if the term "reasonable" is in there, would that give the people protection or do you think it should be limited to one particular figure?

R. RIVERS: I think it should be limited to a particular figure. Otherwise, you are throwing it open again contrary to the intention to what the body just expressed.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I am surprised at my legal colleagues here on the floor, rather the delegates from the bar, that they should on one hand reject a sum set by the legislature and on the other hand tie a sum in the constitution to something that certainly is very temporary. I think it is a loss of time. We just might as well leave it at \$250.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I cannot see where there is any practical use of tying this bill in with what a city magistrate's court could do for the reason that the magistrate's court only has jurisdiction within the city limits and anybody living outside of the city does not have access to the magistrate's court for a collection of small claims, so there is only a small percentage of the people in Alaska that do have recourse through the magistrate's court, and that is only up to an amount of \$300. Now that would not be too bad because in most of the cities where they have magistrates' courts, here and in Anchorage, and I believe in Juneau and Ketchikan, there is a person of legal training as magistrate. Possibly you would get a better deal, but because most of your United States Commissioners in Alaska are laymen and out in the sticks you are giving them the right to

decide controversies up to \$300. I don't think it should even be \$200, but I am going along with this. But when you put it up to \$300, I can't do it. I can't see where the untrained laymen in most of these outlying precincts should be given exclusive jurisdiction of a case involving \$250 because it just doesn't make sense. I would not mind giving the commissioners the \$300, but they are mostly lawyers. I am certainly against raising it to \$300. I think the way it was was ample. I thought that possibly was too much, but I was not making any objection. So there is absolutely no relation between what is in this constitution and what some city does about the jurisdiction granted to a city magistrate.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, may I ask the Chairman of the Committee a question? Miss Awes, may I ask how did your Committee arrive at the figure of \$250?

AWES: There is no scientific way that we knew of to arrive at any certain figure so this is more or less arbitrary but we just picked a figure that we thought was reasonable under the present day circumstances and conditions in Alaska.

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

BUCKALEW: That was what I was going to say. We might have used a ouija board to determine \$250 or \$300. I agree in this occasion with Mr. Taylor's logic. There is no relationship with what the city magistrate's limitation is, but another thing I would like to say, Mr. Taylor, you will find these judges out in the boondocks and the untrained judges in the lower courts, that is, untrained in the law, I have observed one thing in my limited experience and that is, they follow what is known as substantial justice. They seem to pick the right side most of the time and I've observed in the district court I have been clobbered by technicalities.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I might say Mr. Buckalew bases his statement upon his knowledge gained or his acquaintance with outside judges. He has had very slight dealings with them.

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

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

Yeas: 17 - Buckalew, Cross, H. Fischer, Hinckel, Laws, McLaughlin, Marston, Nerland, Nolan, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, White.

Nays: 36 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nordale, Reader, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. We have now before us the proposed amendment that relates to wire tapping, is it not? Mr. Sundborg.

SUNDBORG: Mr. President, did we find the order of business, the call of the order of business?

PRESIDENT EGAN: We had asked for motions and resolutions, Mr. Sundborg.

SUNDBORG: I wonder if we could revert to the announcements of Committee meetings?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Committee No. III, Style and Drafting, will meet at 10:30 o'clock tomorrow morning at Room 1013 of the Polaris Building.

PRESIDENT EGAN: The Chair would like to bring to your attention -- was it 10:30 or 10:00?

SUNDBORG: 10:30 a.m.

COGHILL: The Committee on Administration will meet immediately upon recess at 10:30.

PRESIDENT EGAN: Do you mean the 15-minute recess or the recess during the noon hour?

COGHILL: During the regular 15-minute recess.

PRESIDENT EGAN: Are there other committee announcements? If not, we will proceed with the regular order of business. Is there any other unfinished business except the matter of the

amendment that is pending to this bill of rights section of the proposal? If not, would the Chief Clerk please read the proposed amendment we have before us?

CHIEF CLERK: "Section 11, page 4, line 12, at the end of line 12 add the following: 'The right of privacy of the individual shall not be invaded by use of any electronic, or other scientific transmitting, listening or sound recording device for the purpose of gathering incriminating evidence. Evidence so obtained shall not be admissible in judicial proceedings or legislative hearings.'"

TAYLOR: Mr. President, I have an amendment to it.

PRESIDENT EGAN: This proposed amendment has been moved and seconded that it be adopted, is that right?

CHIEF CLERK: Yes.

R. RIVERS: I would like to point out that the mimeographed copy of this proposed amendment is on everyone's desk.

TAYLOR: Could we have just a moment? I would like to confer with Mr. Rivers in regard to the proposed amendment.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment. Is there discussion? We have the proposed amendment to the amendment as offered by Mr. Taylor.

TAYLOR: I have an amendment. I would like to read it. I just changed a few words in it so it would read if this amendment is adopted, "The right of privacy of the individual shall not be invaded by use of any electronic or other scientific transmitting, listening, or sound recording device for the purpose of gathering incriminating evidence. Information so obtained shall not be admissible as evidence in judicial proceedings and legislative or other investigative hearings."

PRESIDENT EGAN: What is your pleasure, Mr. Taylor? Do you move the adoption of the proposed amendment to the amendment?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Would the Chief Clerk then read the proposed amendment to the amendment.

CHIEF CLERK: "After the word 'admissible' insert the words 'as evidence'; strike the second word 'evidence' and insert the word

information'; strike the word 'or' in the last sentence and insert the word 'and' and insert the words 'or other investigative' after the word 'legislative'."

TAYLOR: I move the adoption of the proposed amendment to the amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as amended by the amendment to the amendment.

CHIEF CLERK: "The right of privacy of the individual shall not be invaded by use of any electronic or other scientific transmitting, listening or sound recording device for the purpose of gathering incriminating evidence. Information so obtained shall not be admissible as evidence in judicial proceedings and legislative or other investigative hearings."

PRESIDENT EGAN: Is there a second to Mr. Taylor's proposed amendment to the amendment?

V. RIVERS: I will second it and ask unanimous consent.

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard. The question is open for discussion. Is there discussion of the proposed amendment to the amendment? Mrs. Hermann.

HERMANN: Mr. President, I think it is a little bit incomplete. There is nothing covered here except listening and sound recording devices and apparently there would be nothing in the amendment to prevent the taking of photographs or other visual things that could be used just as damagingly as sound transmitting. Also, I am a little puzzled by that expression "incriminating evidence" since it leaves the assumption that it could be done as a matter of course if it was not going to be used for evidence. I value my privacy too much to want it imposed upon even by somebody who might have an aborted case of curiosity.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I don't think that this protects the rights of the people especially. It protects the rights of the lawyer who is protecting a defendant all right, but for instance it does not say that we can't have somebody's wires tapped for the purpose of blackmail. It is only that we can't tap their wires to gain incriminating evidence. Of course I am against the whole thing any way. It is just a legislative matter. I want to remind you that we all came here with the idea of writing a simple constitution covering only general things, and instead of that we are putting in red tape and details. This has no place in the constitution. If we are going to continue to do this, it would be a much simpler matter to adopt the whole con-

stitution of the State of California. We would not have a good constitution, but I can assure you everything would be covered.

PRESIDENT EGAN: Mr. White.

WHITE: Point of order. We are on the amendment to the amendment.

PRESIDENT EGAN: We are on the amendment to the amendment, but it relates to the amendment itself.

GRAY: Question.

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

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

Yeas: 19 - Armstrong, Awes, Davis, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, McCutcheon, McNealy, Nordale, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Taylor.

Nays: 34 - Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Gray, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Rosswog, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

V. FISCHER: I would like to change my vote to "yes".

PRESIDENT EGAN: Mr. Victor Fischer asks that his vote be changed from "no" to "yes".

CHIEF CLERK: 19 yeas, 34 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment to the amendment.

PRESIDENT EGAN: You may submit it. Would the messenger please bring forth the amendment to the amendment. The Chief Clerk may read the proposed amendment to the amendment as offered by Mr. Robertson.

CHIEF CLERK: "Amendment to the amendment of Section 11: At the end of the amendment, delete the period and insert a comma and add the words, 'except when obtained upon warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the objectives thereof.'"

ROBERTSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson moves the adoption of the proposed amendment to the amendment.

METCALF: I second the motion.

PRESIDENT EGAN: The matter is open for discussion. Mr. Robertson.

ROBERTSON: Mr. President, I am in favor of the amendment as proposed by the four delegates. I believe in the protection of the privacy of the individual citizen, but I also don't want to spoil criminal investigative or law enforcement officers from having no way of obtaining evidence from criminals and others if probable cause is shown. There seems to me there is no reason why this invasion of privacy should not have the same kinds of exceptions as searches and seizures. I believe it could be done by requiring in each instance probable cause to be shown as to why they should be permitted to invade the privacy of some particular person that they are trying to gain evidence against. That is the theory of my amendment.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I find myself in agreement in theory with the amendment to the amendment because I am sure that it would ruin the purpose of the amendment. Certainly upon hearing whether it is just cause to tap somebody's wire or not, he would make sure not to use them. Since I am against the amendment in the first place, I shall vote for the amendment to the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe this is one of the most flagrant ways of depriving the citizens of privacy I have seen brought forth here today. Mr. Robertson's amendment states that it must be on oath or affirmation, the same as a search warrant. Now the law respecting search warrants says that you must describe what is expected to be found and that it is either stolen property or is contraband property. Now, how can any law enforcement officer say that in my home something is going to be said, maybe today or tomorrow, that they would like to pick up that conversation and they would have the right issued by a commissioner who issues search warrants and who in most instances are laymen to have a law officer go and tap my telephone wire or attach a microphone or other listening device to

my house to find out and set on that thing and catch all the conversation that has gone on for several days. How is any law enforcement officer going to say that incriminating evidence is going to come over a wire? Now in a search warrant you must swear that that is there and give the sources of your opinion and you can't even make that affidavit on information and belief. You can't make the affidavit that somebody said it was there, because then you will have to get the affidavit of the person who said it because the law is very particular that a search warrant that cannot be based upon information and belief. Even if somebody told the commissioner that they understood that John Jones and Pete Smith are going to have a conversation tomorrow over a certain telephone, but you still can't say what is going to be said. This is the worst invasion of the rights of the citizen that I have seen yet. First, who is going to say whose home shall be tapped? How are you going to get around that? Who is going to have this power possessed by what most of us believe is by the Almighty, that is going to say that certain incriminating evidence is going to come over a wire and that it can be caught by electronic device tomorrow or next week or next month. That is going too far. I think we should vote it down.

V. FISCHER: Mr. President, I would like to ask Mr. Robertson a question. My understanding is that at this time the certain agencies of the federal government do resort to wire tapping, but only for the collection of information which can lead them to obtain evidence. If this were adopted, anybody could go to the courts and obtain a permit to tap and then whatever they actually heard on the wire would be admissible as evidence in court. In other words, this would go a lot further than even what is being done today in terms of wire tapping, would it not?

ROBERTSON: I don't think so. They must particularly describe the objectives of why they want to use these devices, and I think you could rely on the courts to see that the objectives are valid. For instance, they might want to obtain evidence against some gangster going into a house or a building and they would have to state it. I think we could rely upon the courts the same as upon the issuance of a warrant to search and seize objects in the house.

PRESIDENT EGAN: The question is "Shall the proposed amendment to the amendment as offered by -- Mr. Barr.

BARR: Mr. President, with this amendment, if it were adopted, it would be right in line with Section 11 which guarantees the privacy of persons and their homes and property. Now when we speak of persons and we guarantee their privacy, it means of course law-abiding citizens. Where there is reasonable doubt of that, where there is reason to believe that the law has been violated, of course, a warrant may be obtained to search their homes. And in case a warrant is obtained, it says it should be

issued upon probable cause, but of course in a like case, a warrant could be issued upon probable cause to listen on the phone. It must be supported by oath or affirmation, which could likewise be done in this case and should particularly describe the place to be searched, in this case it would be the same and the persons or things to be seized. Now, Mr. Taylor says you cannot expect to tell what will be heard. That is true, but such a warrant would only be issued after there was probable cause and other evidence that would tend to prove that the person was a criminal or was breaking the law. The purpose of tapping the wire would be to obtain further evidence. You would not obtain a warrant to obtain the first evidence. There would not be probable cause. With this amendment the rights of a person to his privacy is still guaranteed. It is only upon some evidence that he is breaking the law that a warrant would be issued.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am a little confused as to how to vote on this amendment. I think I am in sympathy with the cause because I am against the main amendment. But I think some difficulty ensues here by inserting this amendment to the amendment at the end of the second sentence where it refers only to whether or not the evidence obtained shall be admissible, which seems to me is pointless when you prevent the invasion of the right of privacy in the first sentence. I don't know what to suggest, but it seems to me it would be better to vote on the main motion first. If it should pass, then amend it. You could say, for instance, "strike the last sentence and insert after the first word 'subject to such exceptions and procedures as could be established by the legislature'." That would be my suggestion, but I am afraid the amendment as offered is a little confusing coming at the end of the second sentence.

BUCKALEW: I wonder if Mr. Robertson would agree to withdraw his amendment so we could vote on the main amendment and that would close the issue.

ROBERTSON: To answer Mr. Buckalew, I feel I must support the main amendment because I believe in the right of privacy, but I would still, as I stated at the outset, I would still like to have some provision in there so law enforcement officers won't be handicapped in gathering evidence against criminals. That was the purpose of my amendment. It seems to me that it is very clear and not at all confusing. I believe it follows in the proper sequence in the amendment.

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

STEWART: May we have it read, please?

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

CHIEF CLERK: "At the end of the amendment delete the period and insert a comma and add 'except when obtained upon warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the objectives thereof.'"

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

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

35 Yeas: - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Laws, Londborg, McCutcheon, McNealy, Marston, Metcalf, Nerland, Nolan, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, White.

18 Nays: - Armstrong, H. Fischer, V. Fischer, King. Knight, Lee, McLaughlin, McNees, Nordale, Peratrovich, Poulsen, V. Rivers, Sundborg, Taylor, VanderLeest, Walsh, Wien, Mr. President.

2 Absent: - Cooper, Emberg.)

KILCHER: Mr. President, I would like to change my vote to "yes".

PRESIDENT EGAN: Mr. Kilcher asks that his vote be changed to "yes".

CHIEF CLERK: 35 yeas, 18 nays, and 2 absent.

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

COGHILL: I move the previous question.

LAWS: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying no. The "noes" have it and the previous question has not been ordered. Mr. White.

WHITE: Mr. President, I voted for the amendment because I guess it improves it. I am still a little confused about it applying to the last sentence and not the first. I still think we would be better off without the amendment in its entirety. As it stands, it probably expresses the intent of most of the members of the body, and in that it appears to me that it is desirable to leave the door open to the use of such devices under certain circumstances and subject to tight control. You can, for example, require the local district attorney to apply to the attorney general of the state. You can go beyond that and say the attorney general must get the approval of the chief justice of the supreme court. I would not object to seeing any kind of restrictions apply to wire tapping or the use of any other electronic devices, but I think the constitution is not the place to do it. I would agree with the point pursued by Mrs. Hermann a little earlier that this does not go far enough if you want to start mentioning these things in the constitution. You should prohibit the invasion of privacy by the use of tear gas and we should also outlaw war and do quite a few other things. I think a more sensible approach is the one taken that will provide our law enforcement officers with side arms and we don't say, "You can't use them." We say only, "Shoot the right people". This is merely another weapon in the battle against crime. Another thing I think that has confused the issue is that we have not separated the question of the use of such devices and the admission in court of evidence obtained thereby. It is separated on the federal level where every attorney general since 1931 with the approval of the administration has authorized the use of wire tapping subject to tight control, but the admission of evidence obtained thereby is not permitted in court. That, it seems to me, is the sensible approach. I still feel that we should vote down the amendment.

McNEALY: I have an amendment to the amendment.

PRESIDENT EGAN: Mr. McNealy has a proposed amendment to the amendment as amended. The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "Line 6 of the amended amendment, delete the word 'incriminating' and insert the words 'information or'."

PRESIDENT EGAN: "Delete the word 'incriminating' and insert the words 'information or'."

McNEALY: I move the adoption.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment to the amendment as amended.

V. RIVERS: I second the motion.

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

McNEALY: The only reason for that is that, and the reason my name appears on the amendment, I am interested in the rights of the individual and the privacy of the individual and the basis of my thought is that it is not so much the preventing, the individual is not going to have to worry particularly about incriminating evidence against him. The thing I am concerned on is picking up private information as to a man's business affairs to be used by competitors or information in a person's home, it might open the avenues to blackmail by improper parties getting evidence in this matter.

BUCKALEW: I wanted to speak on a subject for just a few minutes.

PRESIDENT EGAN: We have the proposed amendment to the amendment as offered by Mr. McNealy before us.

BUCKALEW: Not on that, no sir.

PRESIDENT EGAN: Is there discussion? Mr. Barr.

BARR: Mr. President, this amendment to the amendment does make the meaning much broader instead of making this amendment merely a protection to defense attorneys it does now protect the privacy of most individuals, all individuals, not only those accused of breaking the law. However, I still say that this is a legislative matter for the very simple reason that there are so many angles connected with it that it should be a law taking up two or three pages. For instance, if this amendment to the amendment, including the words "information or" is now adopted, what are we going to do about all these good women who listen in on party lines? They are using an electronic device. There are a lot of things to consider. I think it should be left to the legislature and they will work it out.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as amended as offered by Mr. McNealy be adopted by the Convention?" The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "In the mimeographed amendment delete the word 'incriminating' on line 4 and insert the words 'information or'."

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

McNEALY: On the original amendment before Mr. Coghill moves

the previous question, I would like to speak just briefly. I am strongly in favor of the amendment as it is and I first want to call attention to the fact that the legislature has been the whipping boy of the Convention. It is fortunate that we have the legislature so that in all phases of this session we have had something from time to time to refer to. Now, the direct attacks upon the legislature, have fortunately ceased, now the device is being used that if you are opposed to anything going in the constitution, the argument is that you leave it up to the legislature. If you are for something going into the constitution, why you say, "Let's not leave that up to the legislature, let's spell it out." So the argument on the legislative matters and the legislature here has been purely down to a point now whether or not you are for or against the amendment. I have talked with the local United States Attorney on this subject. He naturally is opposed to, would prefer that nothing of this kind come in, but his greatest fear as he expressed to me, and possibly to others, would be to write something in that would prevent the use of lie detectors or taking fingerprints or the use of binoculars. This is what I considered a watered down amendment here which is now before us, and it does not take away the right of the federal officers to use the lie detectors, binoculars, and that type of thing, to secure information for convictions, and so to a large extent it eliminates what at least the local law enforcement officers feel would be in their road in attempting to secure convictions and evidence for convictions. Now there has been a great deal brought up here on the floor about subversives and kidnapping and treason and saying how terrible it would be if my child is kidnapped here and they could not use this wire tapping or things of that nature and how terrible it would be if we could not catch subversives, how terrible it would be if we could not use this evidence for a matter of treason. Now, fellow delegates, those are not state affairs, those are affairs of the federal government. No state in the Union is out looking for subversives. Kidnapping is a federal offense. Treason is certainly a federal offense. Our treason article which we have written into the bill of rights means exactly nothing. It is a gesture holding to tradition, because the only actual treason that could be committed would be a treason against the federal government. If we became a state and there was treason against the state, it would be treason against the government of the United States per se, so the reason I mention those three things, subversive, kidnapping and treason, is because the use of evidence obtained by these methods, regardless of whether we have it in here or not, is by the federal law, by the supreme court. They can't use it as evidence anyhow, even if we were a state. The only purpose of this is that a great number of states have begun to use and to allow wire tapping there by legislation, where again the legislature has passed laws in several states allowing wire tapping and has cut down upon the rights of the individuals. Another thing is that from the little experience I have had in serving

the government as well as in a private capacity, and I do wish to state that I am not a criminal attorney; in fact, I have discontinued, and quite some time ago, the handling of any criminal cases whatsoever. So I am not interested in it from that point, but I know a great number of the delegates realize, possibly everyone does not, but I want to comment on a few of the devices which we have already, and heaven alone knows what the future is going to bring forth. I am going to agree with Mr. Rivers, it is certainly not beyond the realm of possibility that in the near future they may even be able to transcribe our thoughts by electronic devices, but now, there are devices which can be stuck to your door of say, your hotel room, or on the door leading into your house and put on the outside of your door, and the person can stand outside and through this little electronic device stuck on the door with a suction cup, you can hear everything that is said, even in the farthest corners of the room. There are little devices where they can enter your house and behind a baseboard or something plug in a little article into a wall plug that is so small that it is scarcely noticeable, especially if there is any way to camouflage it at all. A person two blocks away can hear everything that goes on and is said in that particular room. There are devices that are carried on the person. They can be lowered by a wire down near the outside of a window and pick up from inside of the house and heard two blocks away. The devices carried upon the person are such, I think we are certainly all acquainted with, and a person can walk into your home and carry on a conversation and another party standing outside within two or three blocks can listen to everything in that conversation. There are numerous others. I am not going to take up your time on these devices, but since we have those, I think the person has the right of privacy in the home. I think they also have the right of privacy in their place of business or office. Now I am concerned largely here that if this sort of thing is allowed, and I do not agree that it is a legislative matter, I think that more and more of the constitutions of the states will begin to adopt this protection for its citizens, as the State of New York has done in its constitution, and we have shown here that we are not adverse to taking minority views or the views of minority states and writing it into our constitution. I think it would be a protection for the people of the future state of Alaska to have at least in their individual rights, and it properly belongs in the bill of rights. I can see where if this is allowed that business competitors could use it. It would be useful in politics and even more so in the matter of the home. On this, I think this is the first time possibly that I have referred to any experts, but the Committee did have the assistance and the recommendation and the advice of Mr. Elliott who was here with the Judicial Committee in working up this, and I believe that we should seriously consider writing this into the constitution, and I hope that a substantial number of delegates will vote for one more right to

the individual. We are not here to write a constitution to deprive the individual of their rights but to give them more rights than the Federal Constitution gives if possible.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would invite all of the delegates to take a quick glance at the proposed bill of rights, and you will see in the bill of rights that it covers such things as freedom of speech, searches and seizures, freedom from imprisonment for debt, etc. Now, I think that we are chasing the imaginary bogymen that does not exist. I don't think we have ever had any problem in Alaska with wire tapping or invasion of the right of privacy of the average Alaskan with these devices that we are talking about. I was in the United States Attorney's Office for awhile. I was an assistant United States Attorney, and I had access to all the files that were in the office and had been there for years, but I don't recall coming across any criminal case where the government had used wire tapping or any technological devices to invade the privacy of the home. The problem does not exist. In the bill of rights you protect rights that have been abused; historically that is the way it came up. We got abuses from England and they came into the Federal Constitution because they were abuses that George III had used against us. There is no problem of wire tapping in Alaska today, and if the problem ever came up, I am sure that the Alaska legislature would act promptly. They have the authority to, and they would stamp it out at once. The people would rise up and demand it and we would have a law that could be studied and that could cover any particular situation that might arise in the future. One of the things that really frightens me about this amendment is, as it exists in its present form, I think it gives the police too much power because it is an unheard of innovation. For that reason I am going to vote against it. For the other reason I am going to vote against it is because we don't have any problem with wire tapping. The people of Alaska have not demanded of this body that we put such an amendment in the constitution. The main reason, the most frightening thing about this amendment is that the lawyers that have signed this amendment don't know the legal effect of it. They can't tell you how it is going to hamper police officers. All I know is that it is awfully broad. I am afraid that some day this very amendment is going to be used to stab the life blood out of the new State of Alaska.

MARSTON: In the light of the changing world, the rapidly changing world, the atomic power, I think is going to make this world in ten years so we won't recognize it in more than one way. I would like to believe, I am inclined to believe in flying saucers. I believe that there are other worlds trying to communicate with us. If a citizen may speak now, I am going to have faith in the legislature of the future State of Alaska, though we have not had a lot of faith in the Territorial Legis-

lature as indicated here, but I believe that the State of Alaska will have a legislature that will run this government. I believe it will be a different legislature, and I have faith in that legislature, and I am going to go along with Delegate Barr, and I am going to, as I said before, continue to practically vote all the amendments to these committees down and keep a framework here and not a great big bunch of legislation. I am going to leave it to the future State of Alaska to settle this question.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: As one of the makers of the amendment, I want to present my statements at this time. I have noticed that the amendments that have been submitted so far, I believe, have been submitted in all sincerity in order to improve the proposal. I think that is true of the amendment submitted by Mr. Robertson. I have noticed though that in some legislative bodies there are two types of legislators. This I consider to be included in the class of a legislative body. We are making supreme law for the State of Alaska. One class of legislator is a relatively farseeing man who tries to amend and act in such a way that it will be better even if he is going to vote against it. I have seen sincere and honest men try to amend an act to improve it. I have seen men trying to amend an act out of its real substance in order to make it unappealing to others so if it does pass it is not workable. I have always approached that in the only honest way which is to act and vote upon an amendment on its true merits, not to try to make it unworkable not to try to make it so if it passes it will be a discredit to the body but a credit to the body. Now I feel that the Robertson amendment was a well-adopted amendment and could possibly, by proper legal interpretation, be made to work. He is an attorney trained in such things, he favors this motion and I have heard others stand on the floor here and say that they feared for the police power. I think their tendency in that kind of thinking is in the terms of a police state. It seems to me that we in this bill of rights are trying to protect the right of the individual. Out of the thousands of individuals of which there may be one criminal we are willing to sacrifice the rights of 999 to possibly assist the police or the police-type of state in apprehending the one man out of that thousand. I think that our approach to this constitution, this bill of rights, should be the protection of the individual and the reservation of the power of the state from its perhaps overzealous officials who might try to, in all sincerity, might abuse the rights of the individual and try to achieve their objectives. I have also heard others with the military point of view of thinking in terms of a military state. There is often a chance that the military state with its extreme powers can and would abuse the rights of the individual. I think that the military power of the state and the use of wire tapping devices, electronic devices, the power of the national government protecting itself

against the subversives, is well-covered in our congressional acts and in our supreme court interpretations. It is my thought here and my hope in presenting this amendment that we would protect the rights of the individuals against undue invasion by scientific devices. I for one feel that the amendment in its present form is a workable amendment with proper legal interpretations at the time the matters come up. It only seems right and just to me that we should be farseeing enough to sit here and try to protect the rights of citizens from these devices which might be used to abuse them for the seeking of this one criminal out of perhaps 10,000 people. I just want to say again that a person whom I feel tries to amend an act out of shape so that it is unworkable and unacceptable to the majority of the body of the people is not honest in his approach to the problem. I have heard it brought on the floor twice this morning and that is why I bring that point up. The right of the individual here is something we are trying to protect. I have gone through this bill of rights and I see that we have adopted a number of the standard clauses from a number of constitutions. I also see that some of the things that are of high importance to us, certain types of the approach to investigations, certain inalienable rights that we should enjoy, which have been violated many times in the last 25 or 30 years in the name of protection of the state, have not been included. I have another amendment which I am going to offer which I will not discuss now but it seems to me we should have the vision to look forward and see what we must anticipate in protecting the rights of all of our people rather than to try to protect and build up a strong police or military state which would be supreme and above the rights of those people. For that reason and in all sincerity, I was one of the makers of this amendment, and it seems to me we have here a chance to protect the right of privacy of the individual from undue invasion by scientific devices, and I for one am in favor of it.

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

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The Administration Committee will meet here for about one minute.

PRESIDENT EGAN: The Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

WHITE: Mr. President, I rise to a point of personal privilege.

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

(Mr. White spoke on a matter of personal privilege.)

PRESIDENT EGAN: If there is no objection, the Chief Clerk will please read the communication on the desk.

(The Chief Clerk read a telegram from Mr. Henning N. Johnson and William Paver of Homer, stating they believed the people on the Kenai Peninsula would not ratify the constitution unless the initiative and referendum are included and recommending an automatic constitutional convention every 25 years.)

PRESIDENT EGAN: The Communication will be filed. We have another communication here. Mr. Armstrong had been asking about it, and the Chair had forgotten just what had occurred relative to that communication. Mr. Sundborg had received such a communication and had brought it before the attention of the delegates. If there is no objection, this particular communication from the Commissioner of Education will be turned over to Miss Awes, the Chairman of the Bill of Rights Committee. Mr. Coghill.

COGHILL: Mr. Dafoe, Commissioner of Education, will be in town. on the tenth of the month, next Tuesday, and I would like to bring it to the attention of the delegates if at that time they would like to invite him to speak before the Convention. We have had different dignitaries of the Territory address the Convention, and I think that with the substance of the matter of education pertaining to the children, that it would be very advantageous for the delegates to invite Mr. Dafoe to address the Convention.

KING: Mr. Chairman, I would like to inquire, is the Commissioner of Education a lobbyist also?

PRESIDENT EGAN: Mr. Coghill, you might take that up with your Committee and the President at a later time before the question of having Mr. Dafoe.

KILCHER: Just a suggestion to the Chairman of the Administration Committee, if it would not be possible to grant Mr. Dafoe some time during the lunch hour, not to take too much of the Convention time, but yet to give him an opportunity to speak?

PRESIDENT EGAN: Something might be arranged. Are there other communications?

CHIEF CLERK: No.

PRESIDENT EGAN: If not, we are back to the particular amendment before us that relates to the wire tapping. Mr. Harris.

MCCUTCHEON: Question.

HARRIS: Mr. President, I would like to bring up a couple of points here. I wonder if we realize just exactly what we have done with this particular amendment. As it now stands, we have outlawed telephones in anyone's home because we do use them for information. They are an electronic device. We have outlawed the electronic flash on my camera because I gather information quite frequently with it. We have outlawed quite a few other items. The point I am getting at is that we are trying to legislate and I do mean legislate an article here that you can't legislate in three or four paragraphs. It takes more time than we have to give it here.

PRESIDENT EGAN: Mr. Riley.

RILEY: I have not spoken on this subject and I have little to say beyond the fact I have been back and forth all morning as to where I might stand on the particular proposition before us from time to time as its complexion has changed. I should like to say that in the event of a defeat of the amendment now before us, I am confident that other language will be suggested to be included in the existing Section 11, which I think as far as now known, would perhaps avoid some of the objections to the present amendment, which might be more enduring in time and states the general principle with somewhat greater dignity, perhaps, than does the existing amendment, in my judgment.

PRESIDENT EGAN: "Shall the proposed amendment as amended and as offered by Mr. McNealy and other delegates, be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: I would like to see a roll call vote and request the same.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 12 - Armstrong, Davis, H. Fischer, Hellenthal, Hinckel, Laws, McNealy, Reader, R. Rivers, V. Rivers, Robertson, Smith.

Nays: 41 - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 12 yeas, 41 nays and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 11? Mr. Riley.

RILEY: Mr. President, I ask that we stand at recess for five minutes, I ask unanimous consent.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess while a proposed amendment is discussed.

RECESS

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

DOOGAN: Mr. Chairman, while we are waiting for the members to return, I would like to revert to the reading of the journal for a minute.

PRESIDENT EGAN: If there is no objection.

DOOGAN: On the journal for the 40th Convention day, there was a correction that was not read so the Chief Clerk can correct the journal, it will have to be stated on the floor. On page 13, the journal for the 40th Convention day, in the second paragraph after the recess, bottom of the page, insert as another statement or paragraph, "On voice vote the amended amendment was adopted.

PRESIDENT EGAN: What is your pleasure?

DOOGAN: I move again that the journal be approved.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the suggested correction of the special Committee to read the journal be adopted. Is there objection? Hearing no objection, the correction is ordered adopted. Mr. Riley.

RILEY: Mr. President, a number of us met during the recess and I think have met on a substantial agreement among ourselves as to the proposed additional language for Section 11. I should prefer to have that mimeographed, however, before confronting the body with it and ask that further action on Section 11 be deferred until that time.

PRESIDENT EGAN: If there is no objection, the proposed amendment will be ordered mimeographed and the Convention will proceed to the other sections until that is done. Mr. Fischer.

V. FISCHER: May I revert and ask a question regarding Section 3?

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may do so and ask your question.

V. FISCHER: I would like to ask the Chairman of the Bill of Rights Committee about the meaning of the language. The section now reads, "No person is to be denied the enjoyment of any civil or political right because of race, color, creed or national origin." There might be a possible question about whether the denial is an interpretation in a very positive sense that you can only not deny. Would that cover an infringement of civil rights in this case?

AWES: It is my opinion that the word "deny" means to deny in any and all degrees and I think that the word "deny" includes the word "infringe" and goes beyond it.

V. FISCHER: Thank you.

BUCKALEW: Could I ask Delegate Awes a question?

PRESIDENT EGAN: If there is no objection you may rise and ask the question.

BUCKALEW: I was on the Committee, but the thought just occurred to me, after the first sentence we inserted this language, "The legislature shall provide appropriate legislation." Now, Miss Awes, do you think that would possibly restrict the legislature from introducing legislation which would eliminate discrimination by individuals instead of the state? Do you think the legislature should get the idea that they should only protect against discrimination as far as the state is concerned and as opposed to protection against individual rights?

PRESIDENT EGAN: Miss Awes.

AWES: The purpose of the Committee in including that sentence was to direct the legislature and show the legislature that they should provide legislation of an anti-discrimination nature. The reason for that was that we found it was almost impossible to adequately write into the bill of rights all circumstances under which these rights should be guaranteed. We thought it was not only impossible but also undesirable, and yet we wanted to indicate that we believe that such legislation should be enacted. I don't believe that the legislature would consider this as a restrictive provision.

PRESIDENT EGAN: Are there other amendments to the article on the declaration of rights other than that that we are waiting on? Mr. Victor Rivers.

V. RIVERS: I have one.

PRESIDENT EGAN: Would the messenger please bring the proposed amendment to the Secretary's desk? Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of a person to due process of law shall not be infringed by use of the Legislature's investigative power.'"

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

V. RIVERS: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the proposed amendment.

McCUTCHEON: I second the motion.

PRESIDENT EGAN: The matter is open for discussion, Mr. Taylor.

TAYLOR: Mr. President, I would just like for the purpose of information, ask Mr. Rivers to explain the reason for the amendment.

V. RIVERS: I would be glad to do that. I was intending to do that, Mr. President. It has been my observation that in the later years there has been a great deal of congressional and legislative investigation throughout the states and some in Alaska in which the right of the individual has been infringed, in that he is publicly brought into a body by accusation of certain things, is indicted, and then by sensationalism in the press is condemned, without any fair previous hearing or consideration as to whether he should be subject to that type of thing or not. It has been particularly noticeable that the investigative power of congressional groups and committees has been extremely abused in the last ten years. It seems to me that I would not want to limit the investigative power of the legislature but would I like to see them do it in an orderly manner. In such a way that individuals are not castigated and character is not assassinated without properly knowing that the individual has some grounds upon which to approach the individual as to his presumed guilt. It seems to me that there is a drastic field for abuse unless it is curbed in some manner by proper legislative procedure established by law, that there can be an abuse again by the right of the individual subject to the legislative investigative power. Does that answer your question?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I would like to ask Mr. Rivers a question. "Don't you think, Mr. Rivers, that under the section as it now stands

that those guarantees could still be secured? You referred to legislative processes and guaranteeing the rights of people before legislative investigations, and I am wondering if under this provision as it now stands whether that same right is not already given or protected?

V. RIVERS: All I can answer that is by saying is this, that under similar provisions in other constitutions the right of the individual to due process in legislative investigations has not been protected and many of the areas in which investigations have been held have been held under similar clauses and it has not applied.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I am sorry I did not get the proposed amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment. Read it slowly.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of a person to due process of law shall not be infringed by use of the Legislature's investigative power.'"

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Barr.

BARR: I certainly see eye to eye with Mr. Rivers on this. It is true that our rights are protected in the Federal Constitution and other state constitutions in a general way, but I must point out that the trend in recent years has been to give more power to the state on investigations and they seem to abuse that power in certain cases. I believe in spite of any other guarantees in the constitution that we should mention that, only I would go a little further than Mr. Rivers. He said that the people should be protected from the legislative investigative power. I should say from the "investigative power of the state" because we do have certain departments that investigate persons of it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I don't want to take up too much time, but I did want to say that I thought the words "legislative investigative power", the investigative power in any event would have to be delegated by the legislature to either a committee or agencies or departments of government and that it would all be inclusive under the term "legislative power". That was my thought in the matter.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, speaking as a lawyer, I don't think that clause means anything. I don't think it is going to reach Mr. Rivers' point, what he is trying to do. Apparently he is trying to require the legislature to set up certain rules of evidence, certain procedures by which a witness could be entitled to counsel, but "due process" does not mean that. I would like to hear from Mr. McLaughlin. That is my opinion.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I have no ideas. I am frankly puzzled by the amendment. I think this was taken obviously from the 14th Amendment of the Constitution. I believe the wording is exactly the 14th Amendment. We have a mess of cases, probably more cases decided under the due process clause than under any other clause of the constitution, except possibly the interstate commerce clause, and I am puzzled, frankly, Mr. Rivers, by the amendment.

V. RIVERS: It seems to me that on the basis of past and present you might not have a case that applies in this particular instance. Do you not believe that suitable laws could be established by the legislature to protect the right of the individual in appearing before investigative committees or investigative departments of the legislature or departments to which their power had been delegated so that they were not castigated publicly before they were indicted or before they were convicted. Do you think that is beyond the realm or the power of or scope of our law to do such a thing?

McLAUGHLIN: I do not think it beyond the scope of our law, but my recollection is that there are certain members of this Convention who were obviously desirous of securing an opinion from the Attorney General, in substance, to determine whether or not they could libel in this legislative power. I don't know how we could curb the power of the hearings from blasting any individual or any group of individuals right on the floor of the house. He would be subject to the castigation apparently we are attempting to avoid. I think the intent is good, but I think you could not possibly curb your legislature to such an extent that they could not say anything nasty about anyone until they were present with counsel. That is why I am puzzled.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I can see the problem. Depriving a person of life, liberty or property points squarely to the judiciary process. A man cannot be required to testify against himself where he is charged with a crime and they cannot take his property, say like under an eminent domain proceedings without due process of law. There is a real problem. The McCarthy hearings brought out the great issue that existed here a couple of years ago. McCarthy was making charges against people under

the exercise of the powers of a congressional legislative committee. The people, individuals were sorely abused under the guise of the exercise of the power of the legislature to investigate. The only subject that a legislature is supposed to investigate upon is something that will bear upon the state code or prospective legislation that might be under consideration. But under the guise of looking into legislative matters they call hearings and then maybe subject people to very bad treatment and ruin their reputations and assassinate them from a character standpoint, and unless some thought is flagged, even though not too much could be done with this thought, the thought would be there that our constitution is warning the legislature under the guise of its power to investigate; that it shall observe some type of due process and respect for the individual. Now that is the problem. Whether Mr. Rivers' particular brief amendment would clearly pave the way to accomplish that purpose, I don't know, but at least it flags the present abuse.

PRESIDENT EGAN: Miss Awes.

AWES: I am perfectly sympathetic to what Mr. Rivers is trying to achieve, but I am doubtful that this language does it. Frankly, I have read this amendment over several times, and I don't know what the language used does mean.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, this is a matter I think we should all concern ourselves with because as Mr. Rivers has said, over the past number of years we have seen some very shameful episodes in the national life which was more clearly exemplified by the actions of a man whose name very seldom appears in the newspapers anymore, Senator Joe McCarthy. We feel there was a pattern laid by that, I was going to call him a gentlemen, but I will not do so, which we should not allow to be emulated by any department of the Territory. There was a pattern set by him that under the guise of a legislative procedure, or investigation, he indulged in vilification, character assassination, and an intimation of guilt by association. I understand we had some legislative assistant or head of the legislative investigating committee in Alaska who attempted in his own feeble way to emulate that ignoble example set by McCarthy. I don't know as Mr. Rivers' amendment goes far enough, but if it will go to any extent to curb such activities and prevent such shameful episodes from occurring in the Territory of Alaska, I will go along with it. We can't tell but what we might have some "McCarthy" showing up here sometime that wants to bask in the limelight and he will attempt to follow those methods as set by Mr. McCarthy.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I am still puzzled about my original inquiry. I don't see that the rights Mr. Rivers seeks to protect cannot be obtained under the law as it now stands because certainly there is no prohibition in the Constitution or in Section 6 that would prevent the legislature from setting up a set of rules of procedure for its own investigations and, after all, that is the problem, and I don't see that adding this language will strengthen or detract from that rule.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I thought I tried to clarify that in response to your inquiry when I said that it is now directed only to depriving a man of his life, liberty or property. We know that the congressional committees don't put a man in jail, and they don't take any property away from him, they just ruin him period. I don't think the present language reaches the problem we are trying to solve.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I just want to caution the body that there is no point in voting on anything if we don't know what it means. I am going to vote against it. I am opposed to these legislative examining committees and I might add that the latest expression of the people of Alaska was to abolish the so-called Stringer Committee by an overwhelming vote, so the problem really does not exist in Alaska.

R. RIVERS: There is one other amendment that is being rewritten submitted by Mr. Riley, and I think this could bear a little thought and go over it and be held over. I am not too satisfied with the wording "due process" which has to do with judicial proceedings, although it could be applied in a broad way. I think we have to study that a little bit more. I would ask unanimous consent that this go over until such time as we take up the matter after lunch.

PRESIDENT EGAN: Mr. Ralph Rivers has asked unanimous consent that we hold this particular amendment in abeyance until after the noon recess. Is there objection? If there is no objection, the particular amendment then of Mr. Victor Rivers will be held in abeyance until the afternoon session. Mr. Kilcher.

KILCHER: I have an amendment.

PRESIDENT EGAN: Would the Sergeant at Arms bring Mr. Kilcher's proposed amendment forward. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 14, line 8, strike the comma and the words 'invasion or imminent peril' and substitute the words 'or actual and imminent invasion'."

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

KILCHER: I move and ask unanimous consent that the amendment be adopted.

McCUTCHEON: I object.

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

BUCKALEW: I second the motion.

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

ROBERTSON: May we have it read, Mr. President?

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

CHIEF CLERK: "Section 14, line 8, strike the comma and the words 'invasion or imminent peril' and substitute the words 'or actual and imminent invasion'."

PRESIDENT EGAN: Is there discussion on this proposed amendment? Mr. Taylor.

TAYLOR: Just for the purpose of clarification, I would like to state that I believe the two words "imminent" and "actual" are inconsistent. A thing cannot be imminent and actual at the same time. If it is imminent there is a possibility it will occur shortly. If it is actual, it is actually there. It can't be actual and imminent both.

KILCHER: I am afraid that might be the case. I was in doubt myself whether it should be "and actual or imminent", or whether it should be "and imminent or actual". I think that is a matter of Style and Drafting, that is the substance of it, the amendment. I admit that yesterday there was a similar amendment, not quite the same, had been on the floor, and I would like to read Section 14 as it would read as amendment. "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion, or actual and imminent invasion the public safety requires it." There are several state constitutions who never want their habeas corpus suspended. Several others have a saving clause that only in rebellion and invasion may it be suspended. I am afraid that this here Section 14 as it stands now, with the words "imminent peril" in it as a vague clause, that with many others if we don't think thoroughly we will open the road of invasion not of a foreign enemy but of an internal one. It is to me that the clause "imminent peril" in times of turmoil, political restlessness,

and so on, can be abused and can be construed to mean almost anything. I am surprised in thinking over, I have given it quite a bit of thought since yesterday, in going over this in my mind, over Mr. Hellenthal's flowery but not quite logical speech of yesterday, where he worried not enough about the right of the people's habeas corpus, and today he seems to worry very much about people's privacy. Personally, I am worrying about both, but if I had a choice, I would worry more about the habeas corpus than about people's privacy in other matters. This imminent peril clause can be construed, and that is what we have to worry about. It can be construed to be almost everything and in case of rebellion, invasion, actual or imminent, that should be the only exceptions to the right of habeas corpus. We have solid precedent, but with all the other constitutions, the imminent peril clause is dangerous and should be stricken.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: When Mr. Kilcher read Section 14, I am wondering if he put in some language that we did not adopt yesterday. I did not follow him. He was putting in words that he did not include in the amendment he was offering now. At least, I did not get them.

PRESIDENT EGAN: Would the Chief Clerk please read the section as it would appear if Mr. Kilcher's amendment were adopted.

CHIEF CLERK: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion, or actual and imminent invasion, the public safety requires it."

AWES: I wonder if Mr. Kilcher would amend his amendment by changing the word "and" to "or".

KILCHER: I think it would make better sense, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent to change the word "and" to "or". If there is no objection, the proposed amendment to the amendment is ordered adopted. Mr. Hurley.

HURLEY: I have a distinct feeling that this section as it stands now is subject to two different interpretations and as it seeks to be amended, and I think with the "or" it definitely sets it up with one interpretation, although as I recall yesterday, we cleared that thing up and then voted down the amendment, but I certainly think something should be done to this to decide whether we want the writ of habeas corpus suspended in the event of imminent peril or only want it in the event of imminent peril of invasion. If I am convinced that this

amendment takes care of it, I am in favor of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I can see now where the Committee left it open for some doubt. In Committee, the majority of the Committee understood that the courts in construing invasion and the expression "imminent peril" would have to consider the two together; "imminent peril" and "invasion" go together. Delegate Hellenthal is a lawyer and his interpretation of what this section meant was strange and novel to me, and I can see where the court could have the same interpretation as Mr. Hellenthal, and for that reason I am going to support Delegate Kilcher's amendment. I think it is an excellent amendment because I don't think that the right of habeas corpus should be suspended unless danger of invasion by a foreign enemy.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to say that I agree with Mr. Buckalew, with what he has just said. When the Committee adopted this language it was personally my understanding that it meant just about what Mr. Kilcher's amendment says, but from what was said on the floor yesterday, evidently even the Committee was not in agreement, and I am still inclined to think that Section 14 could be interpreted, but I think Mr. Kilcher's amendment would clarify the matter and I am in favor of it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended and offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll. The shouting confuses the Chair very often.

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

Yeas: 30 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, Longborg, McNees, Marston, Nerland, Nolan, Peratrovich, Poulsen, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, VanderLeest, Mr. President.

Nays: 23 - Barr, Cross, Davis, Doogan, Hellenthal, Hinckel, Johnson, King, Laws, McCutcheon, McLaughlin, McNealy, Metcalf, Nordale, Reader, Riley, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 30 yeas, 23 nays, and 2 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Riley, your amendment has not been mimeographed?

RILEY: I prefer to put it off rather than to recess now to consider it again.

PRESIDENT EGAN: Are there other amendments other than to Section 11 at this time? Mr. Victor Rivers.

V. RIVERS: May I ask a question, Mr. President? It seems to me that this is the day in which the body by their rules have foreclosed themselves from introducing individual proposals.

PRESIDENT EGAN: The 8th is Sunday. The understanding of the Chair was that after we discovered that it was a Sunday that it would be held over until Monday. Is the Chair correct in recalling that?

UNIDENTIFIED DELEGATE: Yes.

GRAY: If there are no further amendments, I would like to have about ten minutes privilege of the floor.

PRESIDENT EGAN: If there is no objection you may be granted the floor. The subject is on apportionment.

(Mr. Gray spoke after being granted the privilege of the floor.)

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, in view of the fact that we have quite a long week coming up next week with the evening sessions, etc., in order to give the delegates time to take care of personal affairs in view of the fact they will not have evenings next week available, I will move and ask unanimous consent that we stand adjourned until 9 a.m. Monday.

TAYLOR: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m. Monday?" The Chief Clerk will call the roll.

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

Yeas: 17 - Barr, Boswell, Collins, Cross, H. Fischer, Johnson, McLaughlin, McNealy, McNees, Nerland, Nolan, Poulsen, R. Rivers, V. Rivers, Robertson, Taylor, Wien.

Nays: 36 - Armstrong, Awes, Buckalew, Coghill, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, Marston, Metcalf, Nordale, Peratrovich, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Mr. President.

Absent: 2 - Cooper, Emberg.)

LONDBORG: May I change my vote to "no".

PRESIDENT EGAN: Mr. Londborg asks that his vote be changed to "no".

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the Convention has not adjourned. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess until 1:30 p.m. today.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention recess until 1:30 p.m. today. Is there objection? If there is no objection, it is so ordered, and the Convention will stand at recess.

RECESS

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

SWEENEY: Mr. President, in the report of the Juneau hearings in the section concerning apportionment, we heard from Mr. Curtis G. Shattuck and the report states he is submitting a written statement. The written statement just reached me and I am filing this with the Secretary of the Convention and copies have been distributed among the committee members on the Apportionment Committee so anyone who would like to see them can.

PRESIDENT EGAN: Thank you, Mrs. Sweeney. Would the Chief Clerk read the communication. Are there other communications to be read at this time? Would you desire that this be read or filed?

SWEENEY: No, just have it filed for the information of the delegates.

PRESIDENT EGAN: Miss Awes has requested that this information which was in her possession and it relates to this section that we will soon be on, if there is no objection it can be read. It is one page.

(The Chief Clerk read a memorandum from the Alaska Department of Health regarding Section 1 of Proposal No. 7, Health, Education and Welfare and Section 19 of Proposal No. 5 on the Legislative Branch, prohibiting the expenditure of public funds for the direct aid or benefit of religious or private institutions.)

CHIEF CLERK: There are three attachments. Do you want those read?

PRESIDENT EGAN: If there is no objection, the communication can be filed.

RILEY: I think it would be of interest to the delegates to know the names of the institutions.

PRESIDENT EGAN: The Chief Clerk may read them.

(The Chief Clerk read the tables showing the hospitals receiving aid.)

PRESIDENT EGAN: The communication will be filed and it will be available to any delegates who wish to see it. Are there other communications?

ARMSTRONG: Mr. President, I have here a letter from Don Dafoe, Commissioner of Education, relative to the hearings in Juneau, particularly on the section on education, Section 1 on Health, Education, and Welfare, pertinent to public education. I shall file this with the Clerk, and if anyone cares to read it, I think it should be there for the record and then transmission to Miss Awes, Chairman of the Committee on Bill of Rights.

PRESIDENT EGAN: If there is no objection, that is the way it will be handled. Mr. Buckalew.

BUCKALEW: I would like to have it read. We have read the other.

V. FISCHER: I would like to suggest that we defer the reading of this letter until we come to that particular proposal. We will probably get to it later today or Monday.

PRESIDENT EGAN: Would that be in line with what you had in mind, Mr. Buckalew? Perhaps we might bring up both of these communications at that time.

BUCKALEW: I will concede.

PRESIDENT EGAN: We will proceed with Committee Proposal No. 7. The Chief Clerk will read the proposed amendment as offered by Mr. Riley?

RILEY: This is offered by a number of people whose names appear on the amendment. I might add that those of the members who have it before them, should have inserted four additional words to be in the form submitted. That is on the fourth line from the bottom, following the word "searched" there should be inserted "the information sought or".

PRESIDENT EGAN: Mr. Riley, the proposal I have has no name on it.

RILEY: The names are Robertson, Davis, Hellenthal, R. Rivers, Mrs. Nordale and Riley.

PRESIDENT EGAN: What was the wording?

RILEY: Fourth line from the bottom following the word "searched" there should be inserted "the information sought or" and the word "and" is stricken.

PRESIDENT EGAN: If there is no objection that will be included in the proposed amendment, and the Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 11. The right of the people to privacy and to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches, seizures, or other invasions of privacy shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the information sought or the persons or things to be seized. Information secured in violation of this section shall not be admissible evidence in any judicial or other proceeding."

PRESIDENT EGAN: Mr. Robertson, what is your pleasure? Mr. Riley, would you care to move the adoption of the amendment?

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

WHITE: I second the motion.

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

RILEY: Mr. President, I think that this amendment is not so positive in its terms, not so rigid in its terms, and that it is not so short term in its application or its knowledge of the particular problem that confronts us in its knowledge of technological advance that could perhaps put an absurd twist on a recital of various devices that we may be concerned about. I think as such that it meets many of the objections raised this morning in simply adapting Section 11 by extension of the right

of privacy of the individual. The underscored matter on the amendment before you is all new matter. Otherwise, the section is as it appeared originally coming from the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I don't think that the section has been improved very much. If anything, I think it has been further confused or a veil thrown over some of the facts that I pointed out this morning. In bunching together the invasion of the home for purposes of arrest and search for material things and in bunching together with it the obtaining of other information and not mentioning the devices, it does not simplify the matter which in itself would be commendable but it confuses the matter by putting together incompatibles in my opinion. This morning on the floor and in several recesses we have discussed this matter and not due consideration has been given to those among us delegates who said we would like to see the search warrants as of old applied to things that they have always applied for, but the specific search warrant for obtaining information should not by all means be treated by any other search warrants to be applied by anybody, district judge, inferior judge, etc. That should be treated separately, if permissible at all. Unless such an amendment will be offered, I think I can only vote against it and advise everybody else to do the same because there are hidden dangers in here. It makes it too easy in times of confusion, in times of public panic or mentality to exert pressure upon the lower courts, and it is tantamount to giving up our most precious civil rights.

PRESIDENT EGAN: Mr. Riley, if the Chair might just ask one question, and that would be in considering the wording, "or other invasions of privacy". Do you think that could or ever would be interpreted in the courts as meaning for instance taking a photograph of someone could be considered invading the rights of privacy?

RILEY: I would not think that any responsible court would think that a casual photograph or snapshot such as was suggested this morning would enter the picture here at all.

McCUTCHEON: Mr. President, on the contrary, if such a casual photograph shows a person to their derogation, it is an invasion of their private rights, and the courts have held on many occasions.

WHITE: I think "unreasonable" applies to searches or seizures or invasion of privacy.

BUCKALEW: Mr. President, I have only one thing to say about this amendment, and I am not being funny even though the flower

of the Alaska Bar is supporting this proposed amendment. I challenge any lawyer that put his name on this to explain to this Convention the extent of this amendment. It is dangerous and ought to be voted down now.

GRAY: Mr. Chairman, I kind of feel the same way. I don't know what we have here. I hesitate fully to take 15 minutes and write a bill of rights. The previous established bill of rights we have read and read them. We know what they are, but I am hesitant of all this new material, this projection in the future. I read these things over, I am an ordinary person, we are all ordinary, we don't know what they mean. We are projecting in the future. It might be perfectly all right, but I would like to see more than 15 minutes deliberations on such a subject.

HELLENTHAL: I will try to answer any questions, Mr. Gray.

GRAY: What is the extent of privacy?

HELLENTHAL: The courts during the last 50 years have started a trend of decisions which has reached its culmination in defining the right of privacy. It is a well-defined right. Any unreasonable interference with your personal privacy, if you were, has been held illegal by the courts, and under this constitutional amendment, the practice would be sanctioned in the new State of Alaska. Privacy means precisely what it says, the right to be alone, to be secure in your home, you and your family; the right to be free from interference by unauthorized people, people looking over your transom, those people invade your right of privacy. People who photograph you without authority, they invade your right of privacy, people who break into your yards, climb over your fence, those people invade your right to privacy. Courts have had no difficulty in defining this right. Now it is true, you could ask someone what is an unreasonable seizure and people could spend hours sitting and citing examples of what were unreasonable seizures. I don't think they could tell you all of them. Each one depends on the particular facts of the unreasonable seizure, but courts have had no trouble with that. For 200 years unreasonable seizures have been defined as the need arose by the courts. No one has been concerned about it at all. As the need arises the definitions are amplified and the same thing would happen here. The courts are the protectors of our liberties. We have had faith in our courts for 200 years. They have not let us down and they won't in the future.

BUCKALEW: Question.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, I hesitate but I feel that I have to make a statement again. I am wondering what this group is thinking

of. What do they mean when they mean the invasion of privacy. It appears to me that most of the people that are worried about their invasion of privacy are worried because of some overt act that they may commit. Myself, I have no worry about there being any invasion of my privacy because at the moment I don't intend that I am going to do anything that is going to cause the law to come into my place and make a search or a seizure. However, if something does happen, they are welcome to come in. To me it is just exactly like being caught speeding. There is nothing wrong with speeding as long as you get away with it, but you are against the marshal that arrests you because he caught you. It seems to me we are beginning to beg the question quite a little on all of this argument that goes on. As long as we provide for the fundamental rights in the constitution, let us leave it at that and let's put some faith in our legislature and in our police officers and any other administrative officials that we might have to see that we are protected.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in answer to what Mr. Doogan has said, I consider the right to privacy a fundamental right. That is one of the fundamental rights, and I intend, so far as I am concerned at least, that if this amendment is adopted, that is going to try to get at the same problem that we tried to reach this morning when we were talking about wire tapping and use of other devices to invade a person's home, I can't agree with Mr. Doogan that I am going to leave everything to the police and I can't agree with him that only people who expect to do something wrong are going to object to having their privacy invaded. The difficulty is that a police officer in a police state figures that he is carrying out the will of the state and the rights of the individual don't matter and that is what I am trying to get away from here. Now it is very true that as of today our police cannot invade our private lives to the extent that they do in a totalitarian state, but that is what we are trying to preserve. It is only a question of time if police officials or government officials can eavesdrop on what is done in a person's home in the privacy of his home. It's only a question of time until we don't have any liberties left, one step after another. Eventually everything will be in the hands of the government and our whole theory of government here is that the people are bigger than the government and the people control the government and the whole tendency of the government is to try to invade those rights little by little and each case the invasion is made for a proper purpose supposedly. We talk about kidnapping. We talk about subversives. We talk about that sort of thing and we are all against it, but what we don't realize is that when we nibble away here and there, after awhile there is no liberty left. I consider that the right to privacy in a person's home, in his papers, in his effects, is just as much a fundamental right as the right to free speech.

Now certainly, had this problem been before the framers of the United States Constitution they would have had to deal with it because they were conscious of searches and seizures that had been made by the King's men prior to the Revolution. That is why they were so conscious of the right to assemble, the right to petition, the right not to have their persons or their homes violated. Now, as was pointed out this morning, under the present state, a scientific development, anybody including government officials, can invade my home and your home without even coming near the home. That is something that was not envisioned at the time the Federal Constitution was adopted, and it is something that we should protect against now.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to say one more thing. I feel that I should say it and I don't believe that the proponents of this amendment have answered the question in my opinion. As a lawyer, it completely destroys the protection provided us by the Fourth Amendment of the Federal Constitution and our Section 11 was extracted almost in toto from the Federal Constitution. This is a novel innovation that allows police officers to get search warrants to secure information, as I read it, and you talk about playing in the hands of a totalitarian state, you are not nibbling at it, you are taking one great big gulp and handing the people's privacy to persons in authority.

MARSTON: May I ask Mr. Davis a question?

PRESIDENT EGAN: You may, Mr. Marston.

MARSTON: Does this Proposal No. 7 protect people as you have talked on here?

DAVIS: Mr. Marston, in my opinion it does.

BUCKALEW: Mr. President, could I ask Mr. Davis a question?

PRESIDENT EGAN: If there is no objection you may rise and ask the question.

BUCKALEW: Mr. Davis, under this article in your opinion does it give police officers permission and authority to tap a wire for example for any type of crime if they make a search showing to the court?

PRESIDENT EGAN: Mr. Davis, do you care to answer that?

DAVIS: Well, I will try to answer it. I think probably it would if they made the proper showing to the court and if they got the proper warrant, the same as the same individual can

have his house invaded upon a showing and the issuance of a warrant by the proper court.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: If this amendment here is defeated, where are we at then? I am getting confused.

PRESIDENT EGAN: We are back to the original Section 11 if this amendment would be defeated. Mr. Harris.

HARRIS: Mr. President, I would like to point out one thing I think we are overlooking here. We keep talking about searches and seizures. I would like to point out that that is one house, when you tap a telephone in one house you have tapped every telephone in any place in the United States that have called that house. You are not tapping one phone but all of them.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I find the same fault with this amendment that I have found with most of the others presented on this same section. I had no particular quarrel originally with the section as it came out of Committee. However, I do feel there is a certain amount of legislation written into it. I am wondering what the thinking of the Committee would be, also I am asking the same question of the proposers of this particular amendment now, what would your particular thinking be if we terminated this particular amendment on the 4th line following the word "violated" and inserted a clause "except as provided specifically by law". The same thing could be done to the original article following the word "violated" giving the same effect that is apparent in my thinking. I feel that here we are trying to legislate against the many evils of our private affairs where perhaps we should, if we are going to legislate at all, legislate specifically against particular evils or violations. Therefore, I would say leave it up to the legislature to provide the specific times and means, the particular instance if you please, whereby the search, the seizure, the violation of a private individual's rights might be made.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. McNees asked what the Committee thought of the suggestion which he had to stop after the word "violated" and add "except as provided by law". As I recall, Section 11 was taken word for word from the Federal Constitution. That particular section in the Federal Constitution has stood for quite a number of years, it has been interpreted by the courts. We know what it means and as long as it means what we want it to say, I

think it would be just as well to use it and not change it. Also, I think there is objection to Mr. McNees' section because if you say "except as provided by law", I think that phrase is broad enough to give the legislature authority to pass such exceptions that you would practically nullify the section. You might as well not have it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, how I yearn for the days when I had simple decisions to make, such as if the voters should be 17, 18 or 19. This morning I was against the amendment that was submitted, primarily for the reason that the mentioning of these electronic devices frightened me. In going over this thing as carefully as I have had time to do, I do not share Mr. Buckalew's fears and I think that it is a proper recognition of a privacy which was not recognized in days gone by, and I therefore support the amendment.

BUCKALEW: Question.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Riley and other delegates be adopted by the convention?"

JOHNSON: May we have a roll call?

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 27 - Armstrong, Coghill, Cross, Davis, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh, White.

Nays: 21 - Awes, Boswell, Buckalew, Collins, Doogan, Gray, Harris, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nolan, Sweeney, VanderLeest, Mr. President.

Absent: 7 - Barr, Cooper, Emberg, H. Fischer, McNealy, Taylor, Wien).

CHIEF CLERK: 27 yeas, 21 nays, and 7 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. The Chair would like to state at this time

that it is not in good courtesy for other delegates, when a delegate's name is called, to attempt to tell him how to vote and the Chair has noted that on several occasions, and undoubtedly it at times confuses delegates to have other delegates do that thing, and the Chair would request that that not happen again, if possible to avoid it. Are there other amendments to Section 11? The Chief Clerk may read the proposed amendment.

V. RIVERS: Mr. Chairman, this is a revision of the amendment submitted before recess.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed, to this end the legislature shall prescribe adequate investigative procedures.'"

DOOGAN: Point of order. It seems to me that that is identical to the question we have already acted upon.

PRESIDENT EGAN: We held it over, Mr. Doogan, as the Chair recalls. This was a new amendment, was it not, Mr. Victor Rivers? Would you ask unanimous consent that your original amendment be withdrawn?

V. RIVERS: I will ask unanimous consent to withdraw the original amendment and substitute this in its place in lieu of the other one.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to withdraw the original amendment and substitute this amendment in its place in lieu thereof. Mr. Boswell.

BOSWELL: Could we have this read more slowly, Mr. President?

PRESIDENT EGAN: Is there objection to withdrawing the original amendment as proposed by Mr. Victor Rivers? If not, that amendment is ordered withdrawn. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed, to this end the legislature shall prescribe adequate investigative procedures.'"

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

V. RIVERS: I will move that the amendment be adopted.

PRESIDENT EGAN: Mr. Victor Rivers moves that the amendment be adopted. Is there a second to the motion?

R. RIVERS: I second the motion.

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

R. RIVERS: The last sentence there is to this end that the legislature shall prescribe adequate procedures. There should be a period ahead of the word "to".

V. RIVERS: I will accede to that.

PRESIDENT EGAN: If there is no objection, that correction is ordered made. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I consulted with some of the members of the bar in regard to the expression "due process" as it would apply to the legislature. We decided that "due process" actually focused squarely upon judicial proceedings, and it would not be applicable to a legislative operation. You would not have a judge sitting there passing upon the admissibility of evidence and making the other determinations that enter into, generally speaking, a type of hearing or proceedings which is characterized by the matters that are brought before a court of law. What we are trying to get at is that the legislature in the exercise of its powers to investigate could very well set up a code of ethics or rules of procedure which would adequately protect principles and witnesses from abusive treatment, such as has occurred in the past. We cannot, outside of leaving it to the legislature to prescribe such adequate proceedings, we cannot spell it out here. We can flag it. We can tell them to treat the citizens properly in a legislative investigating proceedings, so Mr. Rivers gave up the idea of trying to extend the due process to legislative proceedings and endeavored to simply highlight the point by asking that the legislature set up proper and adequate procedures to safeguard witnesses and principals against abusive treatment in legislative procedures. I might say that after the McCarthy hearings last year Congress itself appointed a committee or in some other manner initiated steps to set up some rules and ethics for the conduct of Congressional hearings. I don't know what happened to that, but I know that was Congress' thought and that is what we are trying to flag for our legislature here.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Rivers, would it perhaps not be better to couch the proposed amendment in affirmative language and recite it as a right that, in other words, the right of a person to fair and just treatment rather than put in the negative provision?

R. RIVERS: I did not help Mr. Victor Rivers draft this. I refer the question to Mr. Victor Rivers.

V. RIVERS: I used the term "unjust abuses" and it would seem to me that perhaps Mr. Hellenthal's suggestion has merit. I used the term, I don't remember exactly the term, "The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: One more question. As a directive as to the scope of the amendment, it seems to me, I may be wrong, that there are also executive investigations which likewise, at which the witness should be treated fairly and justly.

V. RIVERS: Mr. President, I will ask for a two-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, I have now placed the matter in the affirmative in a slightly different form. I will ask unanimous consent to substitute this amendment in lieu of the one previously discussed. The substance is the same.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to substitute a new amendment in place of the original amendment. Is there objection? If there is no objection, it is so ordered.

STEWART: I did not hear what was said.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that a new amendment be substituted for the original amendment. If there is no objection, it is so ordered and the Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.'"

V. RIVERS: Mr. President, I will move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the amendment be adopted. Is there a second to the motion?

SMITH: I second the motion.

AWES: May we have that read once more?

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

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.'"

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Victor Rivers.

V. RIVERS: Mr. President, I am merely trying to effectuate the statement I made this morning in regard to past experiences that we have had in the later years at least in the matter of legislative and governmental investigations. I think this covers it and would flag, as Ralph has said, the legislature to take the necessary action and set up adequate procedures to see that their rights under this clause were protected.

BUCKALEW: Mr. President, I feel sort of constrained to speak on this subject. It seems like when I do, it almost insures its passage. In my opinion this article is completely unenforceable and it has no meaning in law. It can afford no protection to anybody before these legislative and examining committees. What does it mean? Are we going to follow the rules of evidence as we know in our trial courts? It is a matter for the legislature, for the voters, and there is no way I know of in this short article that you can protect a citizen from some fireball, or whatever you want to call him, a legislator that is running one of these examining committees. The damage is going to be done, and then you are going to get a political question more or less before the courts and the courts are going to have to determine whether he had a fair hearing so to speak before this so-called committee and there is no way that anyone can mandamus the legislature to provide certain rules. I think it is just going to clutter up the bill of rights and my opinion is that it is just a lot of gibberish and is completely unenforceable and should be defeated.

PRESIDENT EGAN: Mr. Smith.

SMITH: I think Mr. Buckalew has pointed out very effectively how this very provision can be made effective. The fact that the legislature, as he has put it, once sets up the rules, or even if there should appear to be a violation of this particular provision, then once the courts have taken the matter in hand and made a ruling of any kind, then they have definitely established something under this provision.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, well, I am of the same opinion now as I was this morning regarding the first proposal. It seems to

me that it is entirely unnecessary. A great deal of question was raised during the argument as to the meaning of the words, "due process of law". Well, many many years ago the Supreme Court of the United States settled it by pointing out that by the Fifth Amendment it was introduced into the Constitution of the United States as a limitation upon the powers of the national government and by the Fourteenth as a guarantee against encroachment upon an acknowledged right of citizenship by the legislatures of the states. Well, under that language certainly "due process of law" not only includes the procedure in our courts but would include any procedure involving the acknowledged right of citizenship, so I don't see but what there is under the proposal as it was originally framed by the Committee and as it is now contained in Section 6, I don't see why the very same protection cannot be afforded without the amendment, and certainly as Mr. Ralph Rivers points out, when there seems to have been an abuse created in a senatorial investigation, Congress immediately took steps to correct it, but it did not take an amendment to the Constitution to do that. The Congress operated under the exact language to correct that abuse by passing suitable legislation, and I think the legislature could certainly do the same thing.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. President, my recollection was that that abuse continued for several years before there was even an attempt to correct it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, in closing this discussion, I just want to say that I have sat in the legislature and on quite a number of investigations. Certain of those groups had fairly orderly procedures that were set up as they went along. Oftentimes it took the form originally of an executive session at which the information was discussed in a preliminary manner. There was no pattern set to follow, but I imagine there was no pattern set to follow when our founding fathers adopted the words "due process". I can look around any lawyer's office and see shelf after shelf of books in which they tried to effectuate, no doubt, the meaning of the term "due process". I can see how in the legislative body after the experiences we have gone through, that there will be revised and improved procedures for protecting the rights of individuals in investigative procedures of this kind, investigations by the legislature and the executive. I don't say you'd have a body of court of law set up, but I imagine that in due time there would be a body of precedence set up by which succeeding legislatures would learn one from the other the best method in which these matters had been handled before and how they could be improved in future handling. It seems to me that we are laying a cornerstone

here to flag them and to bring to their attention the fact that we feel there has been an abuse of this legislative investigative power and asking them in a nice way to be sure that in a fair and just manner the abuses are not continued further. It seems to me the least we can do is to bring this forcibly to their attention and try and start this matter of investigative procedures on a healthy track.

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

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to the article? Mr. Harris.

HARRIS: Mr. President, may I have the floor on a matter of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Harris, you may have the floor on the matter of personal privilege.

(Mrs. Harris spoke on a matter of personal privilege.)

PRESIDENT EGAN: Are there other amendments to sections of the proposal on the bill of rights? If not, we will proceed to the section of the article that deals with questions of health, education and welfare. Mr. Victor Fischer.

V. FISCHER: I would like to make an inquiry, Mr. President. This is the second instance where the same committee has prepared two separate articles for the constitution. Would it not be a good idea to separate them henceforth both for purposes of engrossment and enrollment as well as for purposes of work by Style and Drafting and by the Convention in third reading, since they are proposed as separate articles of the constitution?

PRESIDENT EGAN: Mr. Fischer, it would take a complete change in the title and it would entail, as it were, a lot of mimeographing, a lot of work, and you would have to waive that in lieu of what we would feel would be the cumbersomeness of the present procedure, so you would run into a lot of work if you did it. Just how it happened in this form, it would entail more and we have it before us in this form. Mr. Doogan.

DOOGAN: I thought it was my understanding that when these matters got to Style and Drafting that it was the prerogative of Style and Drafting to take various sections and move them around in placement in regular order in the constitution. Is that not correct?

PRESIDENT EGAN: Mr. Doogan, in a manner all right is what Style and Drafting will do, whether it applies to this particular thing, of course, the articles will follow each other probably in this case. Mr. Fischer.

V. FISCHER: Mr. President, the only thing I had in mind was possibly simplification so things could move a little faster through the remaining process. If it means the mimeographing of even one extra page, I am not in favor of it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, do I recall that several days ago when we had a similar double-barreled proposal that by consent, the first part when we had finished with it, went to the Engrossment and Enrollment Committee so they could start work on it?

PRESIDENT EGAN: You are correct, Mr. Sundborg.

SUNDBORG: If there are no more amendments to the preamble and bill of rights, I would ask unanimous consent that that process be followed with that part of it.

PRESIDENT EGAN: It went with this provision that if after we finish the article that is in the same proposal, if at that time anyone desired to amend the proposed article, that if it was sent to Engrossment and Enrollment before we were through with this, it would still be open for amendment.

SUNDBORG: With that proviso, I would like to make that request.

LONDBORG: Would there be any necessity of it? They can start work on it at their desk any time they want to.

PRESIDENT EGAN: In this manner, Mr. Londborg, the chairman of the committee could then call the committee together. It would be official. Mrs. Sweeney.

SWEENEY: Before we get onto this new section in Committee Proposal No. 7, I would like to move that we adjourn until 9 o'clock Monday morning rather than get started on something else. I so move.

V. FISCHER: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention stand adjourned until 9 a.m. on Monday. The question is, "Shall the Convention stand adjourned until 9 a.m. on Monday?" The Chief Clerk will call the roll. Mr. Kilcher.

KILCHER: Point of order. There is quite a good possibility that notice might want to be given for reconsideration which had been, discussion leading up to that possibility discussions were expected to be held at the normal recess of 3 o'clock.

PRESIDENT EGAN: Mr. Kilcher, your notice of reconsideration is in order if you so desire to make it, even now after the motion to adjourn has been placed, if the question has not been put. Do you wish to make it?

KILCHER: What I am trying to drive at is this, in a short recess awhile ago the possibility has arisen that further discussion at the normal recess at 3:30 would lead up to a sound solid reconsideration if it is cut off now would be impossible.

PRESIDENT EGAN: Mr. Kilcher, that is up to the delegates. We have the motion to adjourn. However, under our rules, a motion of reconsideration or a reconsideration can be considered even at this time even if it is pending. Now, if the Convention voted to adjourn, it would cut off that reconsideration if you did not make it now.

KILCHER: Would a motion for a short recess be in order now?

PRESIDENT EGAN: No, it would not. Mr. Hurley.

HURLEY: In order to allay the fears, having voted on the prevailing side of the question of amending Section 11 by the adoption of Mr. Riley's amendment, I ask now that I be allowed to reconsider.

PRESIDENT EGAN: Mr. Hurley serves notice of his reconsideration of his vote on the adoption of the amendment to Section 11. The question is, "Shall the Convention stand adjourned until 9 a.m. on Monday?" The Chief Clerk will call the roll.

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

Yeas: 21 - Armstrong, Boswell, Coghill, Collins, Cross, Doogan, Harris, Johnson, Londborg, McLaughlin, Metcalf, Nerland, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sundborg, Sweeney, VanderLeest.

Nays: 26 - Awes, Buckalew, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, McCutcheon, McNeas, Marston, Nolan, Nordale, Peratrovich, Riley, Rosswog, Smith, Walsh, White, Mr. President.

Absent: 8 - Barr, Cooper, Emberg, H. Fischer, Hilscher, McNealy, Taylor, Wien.)

CHIEF CLERK: 21 yeas, 26 nays, and 8 absent.

PRESIDENT EGAN: The "nays" have it and so the motion has failed of adoption. The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I am not clear on whether unanimous consent was given to my request that the part of Committee Proposal No. 7 consisting of the preamble and bill of rights be referred to the Engrossment and Enrollment Committee.

PRESIDENT EGAN: It was, Mr. Sundborg, no one objected. Mr. Johnson.

JOHNSON: Mr. President, point of order. Would the bill of rights proposal still remain before us under Mr. Hurley's reconsideration?

PRESIDENT EGAN: Mr. Johnson, your point of order is well taken under that consideration because the motion for reconsideration, even though it was made afterwards, is always in order. You are correct. Mrs. Hermann.

HERMANN: May I ask a question? What has become of the proposal on the initiative and referendum that I thought was referred to Engrossment some days ago?

PRESIDENT EGAN: The proposal is in the hands of Engrossment and Enrollment Committee, is it not?

CHIEF CLERK: No, it is in the boiler room.

SWEENEY: My motion to adjourn was not debatable, Mr. President, but our boiler room has been working on amendments that we have been getting out this morning and so far today, and I just thought this was a good place to stop. We have Mr. Hurley's reconsideration, and rather than tie them up in the boiler room now until 5 or 6 o'clock and come here Monday and not have anything, I thought it would be a good time to quit, and we had eight absent, so I still think my motion to adjourn is a good idea.

PRESIDENT EGAN: The Convention will come to order. Did the Chief Clerk already read this article?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Are there amendments to Section 1? Mr. Ralph Rivers.

R. RIVERS: Mr. President, that was a couple of days ago. Could we have it read again?

RILEY: Mr. President, I ask unanimous consent that we stand at recess for five minutes.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the Convention stand at recess for five minutes. If there is no objection, the Convention is at recess.

RECESS

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

WHITE: Mr. President, I rise to a point of personal privilege.

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

(Mr. White spoke on a point of personal privilege.)

PRESIDENT EGAN: We have before us the article on health, education and welfare. The Chief Clerk will read the proposed article.

(The Chief Clerk read the article at this time.)

SWEENEY: Mr. President, since business has transpired since the last motion, I would like to move that we adjourn until 9:05 a.m. on Monday morning.

ROSSWOG: I second the motion.

HERMANN: Roll call.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9:05 on Monday morning?" The Chief Clerk will call the roll.

HELLENTHAL: Is it necessary to call the roll?

HERMANN: I asked for a roll call.

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

Yeas: 27 - Armstrong, Boswell, Coghill, Collins, Cross, Doogan, Harris, Helleenthal, Hinckel, Johnson, King, Knight, Londborg, McLaughlin, Metcalf, Nerland, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, Walsh.

Nays: 20 - Awes, Buckalew, Davis, V. Fischer, Gray, Hermann, Hilscher, Hurley, Kilcher, Laws, Lee,

McCutcheon, McNees, Marston, Nordale, Peratrovich,
Riley, Smith, White, Mr. President.

Absent: 8 - Barr, Cooper, Emberg, H. Fischer, McNealy, V. Rivers,
VanderLeest, Wien.)

CHIEF CLERK: 27 yeas, 20 nays and 8 absent.

PRESIDENT EGAN: So the "yeas" have it and the Convention stands
adjourned until 9:05 a.m. on Monday. If the delegates would give the
Chair their attention, are there any committee announcements? Mr.
Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet at 10:30 a.m.
tomorrow.

PRESIDENT EGAN: Mr. Rivers.

R. RIVERS: Do those letters that came in have to do with health and
education and was there a brief accompanying same?

PRESIDENT EGAN: There was quite a statement, Mr. Rivers.

R. RIVERS: Some of us may wish to take the opportunity to reading up on
that. One reason I did not feel we were prepared to go into health and
education now is that we have not read those communications or that
statement or brief, so those who want to keep on working, you have got
something to do.

PRESIDENT EGAN: The Convention stands adjourned until 9:05 a.m. on
Monday.