

ALASKA CONSTITUTIONAL CONVENTION

January 10, 1956

FORTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Robert Sheppard of the First Church of the Nazarene. Reverend Sheppard will give our daily invocation.

REVEREND SHEPPARD: Let us pray. Our Heavenly Father, we consider it to be proper and fitting that we again today look to Thee for a moment of worship before we turn our hands to those things that lie before us. Thy Word has told us that the Lord is nigh unto all of them that call upon Him and call upon Him in truth. We pray that Thou shalt enable us to see that truth and to know it that we might have the nearness of Thy presence and the strength Thou has to give. We thank Thee for this Constitutional Convention and all that has been accomplished to this good day. We thank Thee for the tireless efforts and the intimate concern to which this group has given itself to the task at hand. Now we pray as we look into the affairs of today with those associations we must necessarily have one with another, that we shall remember above all that there is one with whom we have the most intimate association and to whom we are the most responsible. That one is God. Therefore let us be diligent to seek out this that we know to be best and highest, that we might provide a document that shall truly govern and rule a great state and great people, as the Lord wills. Be with us to this end we pray. In the name of Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make? Mr. White.

WHITE: Reporting on the journal for the 44th day, page 5, fifth paragraph from the bottom, change the word "refer to" to "revert". Page 9, third paragraph from the top, insert a period after the word "Amendment" and strike the words "of Proposal No. 3". Page 14, bottom paragraph, strike the second "s" on "Rivers". Page 16, third paragraph from the bottom, excluding the roll call, strike the comma after Section 3 and insert a colon. Page 18, third paragraph, beginning with the words "Mr. Taylor", correct spelling of the word seized". Page 19, second paragraph, third line, insert "R." before the name "Rivers". Mr. President, the Committee recommends the adoption of the journal with those corrections.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journal of the 44th day be adopted with the recommended changes as offered by the special Committee. Is there objection? Hearing no objection, the journal of the 44th day is ordered adopted. Are there any petitions, memorials or communications from outside of the Convention? Mr. Coghill.

COGHILL: Mr. President, I would like to announce to the Convention that the children of the Nenana Public School and High School will visit the Convention on Friday morning, the 13th.

PRESIDENT EGAN: How many children will that be?

COGHILL: Twenty.

PRESIDENT EGAN: Do you suggest that perhaps the Convention delegates take those children to lunch?

COGHILL: If it is the pleasure of the Convention. They will board the train at Nenana, the Alaska Railroad, at 6:45 in the morning and arrive here at 8:30 and will catch the 9:50 bus to the Convention Hall. They will be here with the delegates that morning. If it is the pleasure of the Convention, I am sure they would enjoy it.

V. FISCHER: I think it would be a fine occasion for Mr. Coghill to take all the youngsters out to lunch, as well as the delegates.

PRESIDENT EGAN: Mr. Fischer, you might have a very fine idea there. Perhaps in the interim period we could decide what we will do. Mr. Helleenthal.

HELLENTHAL: It may be somewhat in the wrong order, but there will be a meeting of the Committee No. VI immediately following the calling of the noon recess.

PRESIDENT EGAN: There will be a meeting of Committee No. VI immediately following the calling of the noon recess. That is the Committee on Suffrage, Elections and Apportionment?

HELLENTHAL: Yes.

CROSS: Committee on Resolutions and Recommendations has considered Mr. Marston's resolution entitled "Friendly Relations With Canada", and is returning it to the Convention with the recommendation that it be adopted by the Convention.

PRESIDENT EGAN: The report of the Committee will be committed to the Chief Clerk at this time. The Chief Clerk will please read the Committee report.

CHIEF CLERK: "The full Committee, Chairman Cross presiding, having met on January 6, 1956, and considered Delegate Marston's resolu-

tion of December 16, entitled 'Friendly Relations With Canada', hereby recommends that said resolution be adopted by the Convention, which resolution it herewith returns."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Are there reports of select committees? Are there any proposals to be introduced at this time? Any motions or resolutions? Under unfinished business, I believe we have Committee Proposal No. 5 before us in second reading. There are some amendments on hand. Is there a particular amendment pending?

CHIEF CLERK: Yes, Section 7.

PRESIDENT EGAN: Section 7. Mr. Johnson.

JOHNSON: May I be excused for the balance of the morning session?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may be excused. The Chief Clerk will please read the proposed pending amendment.

CHIEF CLERK: "Strike the first two lines of Section 7 and the word 'governor' in the third line, and insert in lieu thereof: 'each member of the legislature shall receive for their services and per diem a sum not to exceed one three-hundred-sixtieth of the annual salary of the Governor for each day's attendance while the legislature is in session'; strike the comma after 'salary' in line 8, insert a period, and strike the remainder of lines 8, 9 and 10." This was by Mr. Boswell. It was moved and seconded.

PRESIDENT EGAN: It was moved and seconded that the proposed amendment be adopted. Is there discussion? Mr. Gray.

GRAY: It is too early in the morning, but I think before we go into the salary here on the legislature, I placed down some figures hurriedly which I wish everyone who has a pencil would take these figures and have some kind of comparison of what happens under Mr. Boswell's amendment, and then, if I may have the opportunity, the one three-hundred-sixtieth per day of the annual salary of the Governor, you pick a figure say of \$22,500, that happens to be the salary of federal judges, and that will probably be the salary of your governor, that of the federal judges. It may be 20,000 or 18,000, but as far as we know now the highest salary in the Territory is \$22,500. As long as we are handling dollars we might as well use plenty of them, so you can check my mathematics at this time. I did not go into too much detail, but first, this present plan runs \$63 a day, or roughly \$1890 per month.

DAVIS: That is the present plan of the committee proposal?

GRAY. No, that is the present plan of Mr. Boswell. One three-hundred-sixtieth of the governor's salary equals \$63 per day or

roughly \$1890 per month. Now I bring that up to compare any other method to this particular method. I am going to give you the ratio of the salaries of one-tenth of the governor's salary and one-twelfth for comparison. The way I have this is if the governor's salary is based on one-tenth of the legislative salary, one-tenth of the governor's salary, and we have got to remember that when we first start here, why the first year or two you may have 60-, 90-, or 120-day sessions. I see very little reason that they are going to get by with a 30-day session in the first several years, so using the figure, a 60-day legislature, and the legislator's salary is \$2,250 a year, that is one-tenth, which would give you on a 60-day session, would give you \$37.50 per day. I think you might as well accept the fact they will use the same per diem as we do now, \$20 per day. There is advantage to using the per diem because it is nontaxable. It is still money though, so you add the \$20 per day and that gives the per day salary of the legislature at \$57.50 per day, which runs \$1,725 per month. That is on the 60-day session. Now, right below that, take another group. This is series two, on a 90-day session for the legislature. Covering over \$2,250 per year gives you \$25 per day salary plus \$20 per day diem gives you a total income of \$45 per day or roughly \$1,350 a month.

R. RIVERS: You said the 90-day session? Are you talking about one-twelfth of the 60-day session?

GRAY: No. We may have a 60-day session. We may have a 90 or a 120 in the same year. This is a 90-day session.

R. RIVERS: Why does it drop from \$55 a day to \$45 a day?

GRAY: Because of annual salary. Why I bring this up is that as your legislature's days increase the salary automatically drops per day because you are based on an annual salary, and if you bring that into the days of the session, you can see the longer the session you hold your average per day drops. I take a third series, the 120-day session which gives you \$19 per day plus \$20 per day per diem which gives you \$39 per day salary or \$1,170 monthly salary. Now, what we have here, we have an annual salary that is basic and the shorter the session the higher the salary and the longer the session, the shorter the salary. You have a standard salary but you also have the per diem which you are going to have any way. You are going to have that \$20 per day and that takes care of the difference whether you are in session or not. You have a sliding scale. It is to the advantage of the legislators to get their work done as quickly as possible because every day their salary is progressively dropping. Also, you don't have to have any closing period. They are going to get the same amount of money outside of per diem whether in session 30, 60, 90, or 180 days, except for the per diem. I bring this in the matter of Mr. Boswell's remarks, that they get a salary of \$63 per day, the same as the governor. If the legislature chose to stay in session for twelve months, each one would draw \$22,500, the top salary in the

state, unless you had some limiting factor on it. Even with the \$22 per day these figures look fairly high, and I used one-twelfth, and the one-twelfth salary per year, I would like to put those down because I am going to put in for one-twelfth of \$22,500. It may be too small. I would like to take some advice from some other people on this thing. I will try the one-twelfth if it is too small then the alternate would be one-tenth. I am following the same thing, on one-twelfth of the \$22,500 is \$1,875 per year. In other words, if the legislature did not have a session they would draw roughly \$157 per month. I assume that what we are going to have is two propositions in this state legislature that you have to meet. One is that in the first years of the legislature your session may go three or four months a year, and in subsequent sessions you may have as low as 30-day sessions in the whole year, but probably 45-to 60-day sessions a year, but in your opening years you are going to have long sessions. In the one-twelfth, take the 60-day sessions first, under \$1,875 a year leaves \$31.25 per day plus \$20 per day per diem which gives \$51 a day salary and per diem, or roughly \$1,500 per month. On your 90-day session, that is what it is per year, it would be roughly \$20 per day plus \$20 per diem which equals \$40 per day. It would give you roughly \$1,200 per month. I bring up a 120-day session because I think in the opening years you are going to have 120-day sessions. Your salary would be \$15 per day plus \$20 per day per diem which equals \$35 per day which is the salary that the legislature is working on as of today. It is the salary the delegates are working on today, and that is for the 120 days which is a four-month period based on one-twelfth. Now there is an advantage on this per diem because it is tax exempt, I mean that \$20 is yours, the salary is not yours, only part yours. I just put this series of figures in so you possibly could evaluate what these figures mean, particularly what one three-hundred-sixtieth of the governor's salary means plus \$20 per diem on top of that.

PRESIDENT EGAN: Mr. White.

WHITE: I think Mr. Boswell's amendment contemplated one-three-hundred-sixtieth for salary and per diem combined.

GRAY: I think that would bring it down to about \$43 for the 90-day session. I believe that is all I wanted to show you was that if you could have a sliding scale on there, you create two things. One, you don't have to have a limiting day, 30 or 60. As the time progresses the legislature draws progressively less money every day they are in session. You are not limited to a certain length session, and it costs the state very little more, just costs the per diem expenses.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask Mr. Gray a question and then point out a point to the assembly that I think very definitely ought to be

considered here. Mr. Gray, in your thinking do you think it is possible during the first four or five years, four or five sessions of the newly formed state legislature, for the State of Alaska to actually complete the work that will be involved in drawing up a statutory set of laws for the state in a period of even 120 days? Might it not run twice that?

GRAY: Well, you asked for my opinion. Having not gone through it, why it is not going to be worth much to you, but I doubt that the session, the actual sessions, would run more than four months a year.

MCNEES: During the formative period?

GRAY: During the formative period. After all, that is a long time, that is practically long enough. For the people where it is in their backyard, that is all right, but for the people away from home, four months a year and during legislative sessions, that is a long time.

MCNEES: Thank you very much. I would like to point out here, too, that Juneau is not in the backyard for most of us, not that I have any quarrel and I am not bringing that up as a point either. It is a long way away from home, but I do believe that the vast majority of those who run for the legislature have good legislation in mind. Furthermore, I would like to point out on this Legislative Committee that brought out the original proposal No. 5, seven people involved, only two of whom had ever served or whom might have voiced any desire to serve in the legislative halls. However, of these seven there is not a one that is not interested in good legislation. I would like to point out the extreme importance of these first three, four, five or six formative years in our statutory law program. They are going to be tremendously vital years with many interim committees serving between sessions. I think they should be allowed to serve without any great financial sacrifice to themselves. I think it should bring the top men of the Territory to the foreground. When I use the term "men", I mean men and women because we all recognize the value of the women in our own assembly here. I think they will play an important role in the politics of the Territory forever, an increasingly vital role. I would like to point out, too, that if we put these salaries too low we are going to subject our own legislature during these formative years when lobbyists become increasingly important to that possible threat of back cubby-hole legislation which certainly should not enter into the picture, particularly during these formative years. I recognize the role of the lobbying in legislation. I am in favor of it, but not when it works to the detriment of the legislator in the hall because then it reflects directly back to the people. We want good legislation, and for good legislation we must pay. I know the financial problem that faces us in the formation of the new state. It is important, it is tremendously vital that we be able to pay for what we want, but knowing the resources

of this Territory, which is soon to become a state, as I do, I am not the least bit concerned in my own thinking, nor have not been for the last 15 years, but what we will be able to pay for it. Therefore, I heartily recommend that we set those salaries high enough first to bring top men to the foreground, secondly, to prevent cubby-hole legislation, and thirdly, to set an example for other states across the nation.

V. FISCHER: May I ask Mr. McNees a question?

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

V. FISCHER: The pending amendment is to set the salary on a daily basis as against the annual salary as provided in the committee proposal. You are speaking primarily on Mr. Gray's argument against the daily proposal plan. What is your opinion of the annual salary as against the daily salary plan as proposed by the amendment?

MCNEES: Being a member of the Committee, I won't say I am defending the article primarily because I am a member of that Committee, but I do feel we came out with a workable recommendation in Committee with possibly some adjustment on the one-third figure. I would like to see it held to. I think that there should be a salary figure there high enough so that a man could become a careerist in the field. That is the only way we are going to prepare adequate men for the United States Congress.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I agree with the proposal of the Committee and will be willing of course to see the percentage of amount adjusted. I also feel with Mr. McNees that this first four or five years of being a state, possibly the first two, there might well be a session of 90 days or part of the year and another session of 90 days with a break in between, similar to the way Congress sits at the present time, and that would be especially true in the first years of the new state. I also feel this: I have served, as you know, in some six senate sessions, and it has been my observation that the senator who runs for the senate has certain commitments and obligations in his campaign that can range anywhere from \$250 to \$1,500. Then he goes to the senate and legislature and has to establish a second home during the legislature. If he is an active member he must also provide some additional secretarial help at his own cost. It has been my observation in the present level, a person with a business and transferring his residence to Juneau for a certain period of time, it has been my observation that he takes a loss of about \$1,000 a month at the present level. Now that is a direct loss; there is another indirect loss. If you perhaps happen to spearhead a revenue program which certain people that have done business with you feel will touch them, there is a very good chance

in the next four or five years, you will get very little business from them. I have in mind a legislator who has not been in the legislature for about four years. I asked if he intended to run next time and he said "No, I don't believe that I will because I am just recovering from the last session. There are some people who now come back into my store whom I haven't seen for two or three years and are getting kind of friendly again." That is the indirect loss that a man sustains. I would like to see a reasonable but a substantial and fair salary set for the legislature, and I approve the annual plan, not the one three-hundred-sixtieth percentage as Mr. Boswell's amendment sets up. It seems to me particularly in the first years of the state the annual salary basis would be the most desirable and best. I don't quite agree with Mr. McNees that you are going to have men seeking careers on the part time basis of legislation, but I think it is very good training ground and could very well lead them into productive careers in the state executive and congressional legislative offices from the experience they gain in the two houses. I don't like to see us have to send men down there to make a personal sacrifice financially and of their time and not compensate them reasonably at least to offset in some part the benefit and value of their efforts plus the losses they take to their own private income. It seems to me this is an item that should be given serious consideration. I hope we maintain the annual plan as set up by the Committee. I am willing to listen to some adjustment in the percentage which they show.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I do not wish to speak to the motion so perhaps I should ask for special privilege.

PRESIDENT EGAN: If there is no objection, special privilege is granted you, Mrs. Sweeney.

(Mrs. Sweeney spoke under special privilege.)

PRESIDENT EGAN: Mrs. Sweeney, the way the Chair understands it is that if we set up anything related to salary in the constitution for legislators, that would become effective immediately following passage of the Enabling Act by the Congress, so the transitional measures will have nothing to do with the salary of the first legislators, so far as the Chair understands it. Mr. Londborg.

LONDBORG: There are a few things here that come to mind since I have heard the discussion on this proposed amendment and I would like to ask a few questions, if I may. First, I would like to ask a question of Mr. Victor Rivers. You made reference to the fact that often times there may be up to \$1,500 campaign expenses and that consequently a man going down there that has to put a man out for that much should have a salary sufficient enough to take up that shock, is that correct?

V. RIVERS: If a man has strong beliefs in certain policies and principles of government and on the basis of those policies thinks they would be of good value to the people and wants to let them know about that and what his thoughts are, he has an obligation to let them know, I believe, and he is required to spend certain monies. And out of that money the only way he reimburses his own pocket book for that is by having it in the salary. It is part of the cost of the operation of being a legislator.

LONDBORG: Along that line let us suppose there are two candidates, and they are equally earnest and zealous and equal as statesmen, and so equal that one gets elected by one vote over the other. The defeated candidate also has quite a shock to his budget. He has put himself out \$1,500 and who is going to pay for that? That is one thing I see in covering the shock of the campaign by a salary.

V. RIVERS: I think the answer to Mr. Londborg's question is self-evident. It is like everything else in life, it is a gamble. If you win, you win, and if you lose, you lose, and it comes out of your own pocket.

LONDBORG: It is interesting then that we take in gambling on it, but if there is such a shocking loss it is interesting to me why so many continue to run. Now I would like to ask a question of Mr. McNees. He has been arguing that we are going to have a longer term during this transitional period. Then it would seem that either we should put it on a daily basis, speaking now on the amendment, as Mr. Boswell puts it, so if it runs longer they get salary each day for as long as it runs. If it runs shorter they get a salary each day for as short as it runs. It seems that we are having arguments for setting a very high salary on the basis of the fact that we have a long transitional period. I think we ought to look ahead when the thing is going to level down, what should be a decent salary then. If we feel it should be higher during the transitional period then leave it up to some other measure. I am not for underpaying by any means. I don't feel that the one-third is quite justified though.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I am in full accord with the Committee's report. People are strange sometimes. I want to point this out to this legislative body. I was in the last session of the legislature and I say that with some honor, and we had a tremendous fight in the house to get for people to this Convention \$35 a day, and I can recall some of the speeches that were made, and I remember that I had to fight like a tiger to get \$35, and then the people said they were not worth it because they did not want to vote for \$35 because they wanted to make the argument, when they got home that they were for economy. I think that the people here are probably the most important people in Alaska, and they deserve to be paid. As far as this legislature is concerned, I look upon a

legislator as one of the most important individuals in the state. The legislator is as important as a judge, the governor, and you pay a man according to the job he does -- the job that is created for him, and when you figure it out, cut it down to so much a day and go along and have to diminish his salary, that is nonsense. I don't see why you should put any strings on a legislature. They are mature individuals, and I don't think they are going to go down there and goof off on the money of the new state. It costs money to run for office and if you are going to make everybody eligible for an office, you are going to have to pay them, and I think that the proposal of the Committee is the only proposal I have seen that makes it possible for the average man to run; by the average man I mean the man who is making payments every month to the bank. When I went to the legislature I had to go down and see Dan Cuddy to get some money to get to Juneau, and I don't think that is fair. Maybe we want to eliminate it and let the people in certain brackets run. If you are going to start whittling it down, you are going to get to the point where we poor boys can't run for the legislature. I don't say we are more qualified, but I think we are entitled to the privilege to run for the legislature. The only way we are going to get that privilege is to be paid for it, and the only place I want to get the money is from the state treasury. I ask all of you to support the Committee proposal because I think it is a step in the right direction, and I think we're going to get a lot of good members turning out for that first state legislature.

MARSTON: I am going to ask some questions to get my own mind made up here. When I was out during the recess I found a lot of sincere people questioning the Committee's recommendation for this big amount of money. I am for paying good people. You pay good wages and you get good help, but whether it is the right thing to do now or not, I have a question after hearing, the people outside talking about that large sum we are giving to the legislature over and above the present operating cost. This is a question I would like to get at. Further, I don't think we are going to have a long session of this new State of Alaska. What is the story of other states when they came from territory to statehood? Did they take a long session? These are the questions I would like to have you answer so I can make up my mind. I would like to ask the author of this amendment to figure out how much money he would pay for a 60-or 90-day session. Then I would like to ask the wizard of figures here, Mr. Gray, how much his scale would cost for a 60-or 90-day compared to the Committee's recommendation. I am lost with the figures, and that will help me a whole lot.

BOSWELL: May I have a two-minute recess?

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

RECESS

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

BOSWELL: Mr. President, I think I have here for the 60-day session figures which would amount to \$2,800 per legislator or \$168,000 for the session; for a 90-day session, \$4,200 per legislator or \$252,000 for the session. That is salary only.

WHITE: Mr. President, I think another part of the question -- we might refer to how the Committee proposal would work out. I have it worked out here on the same basis as Mr. Gray, and that is one-third of the governor's salary, assuming the governor's salary to be \$22,500 per year. For a 30-day session that would be per salary \$7,500 per month or \$250 per day and if assume a \$20 per diem which this section allows for, it would be a \$270 per day or combined salary and per diem, \$8,100 for a 30-day session. For a 60-day session it would be salary of \$3,750 per month, \$125 per day plus \$20 per diem would be \$145 per day for salary and per diem combined, \$4,350 per month. For a 90-day session, salary of \$2,500 per month, \$83.33 per day plus \$20 per diem, a total of \$103.33 per day, or salary and per diem combined at \$3,100 month; a 120-day session, \$1,87 per month salary which equals \$62.50 per day plus \$20 per diem equals \$82.50 per day combined, \$2,475 per month.

V. RIVERS: Mr. Chairman, those are interesting figures, as have been all the others. I just want to point out here that any legislator that is elected to the legislature who is a conscientious individual has more to do than the time that he spends at the session. I feel that every man who has had experience in the legislature and every woman in this body must know that all during the time you are a member of that legislature, whether you are in session or not, you spend a substantial amount of your time working with, helping people, answering questions and trying to assist individuals and groups in their problems, and it cannot be measured in terms of only the time the legislator who is a public official, sits in the legislature when it is in plenary session. There is no way you can measure the amount of work that is done by one individual, but I say that any conscientious individual who has the ability and is trying to help the people of the Territory as a member of the legislature must spend a substantial amount of his time while he is not in session. I believe it is part of his oath of office and bounden duty, and I am practically sure that most of the men and the women who have sat in the legislature have found it to be true that they spend as perhaps as high as 25 per cent of their off time, directly or indirectly, in affairs that involve their legislative activities and activities of the people.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Speaking of this Committee proposal, as I read it, the salary of the legislator would be based on an annual salary equal to one-third of that which the governor might receive and assuming that the governor's salary would be \$22,500, which seems to be the figure in the minds of most of them here, that would mean one-third

of that would be \$7,500 on an annual basis. Multiply that by a 60-member legislature, house and senate, as in the minds of the delegates here now, it would mean \$450,000 per annum which would mean \$900,000 for a biennium. I am afraid that if this is incorporated in the constitution, that when it goes to the people for ratification they might take another look. I think that we ought to make haste slowly on a proposition of this kind, and I think there should be a time limit on the sessions of the legislature.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I would just like to say briefly that I believe that both the Committee proposal and Mr. Boswell's motion set the legislative salaries way too high. I believe, however, that the figures in either the Committee proposal or in Mr. Boswell's motion can be adjusted downward. I think what we should consider right now is the point, do we want an annual salary without a limitation upon the length of the session or do we want, as Mr. Boswell proposes, a salary based upon the number of days that the legislature is in session, and then of course we have to follow up in subsequent sessions and put in a limitation upon the length of the session of each legislative session. I think that should be the basis of the discussion rather than the fact that the salaries in either or both proposals are too high. There is no question about that in my mind. I personally am in favor of the annual salary plan as proposed by the Committee, and I hope that we will defeat the motion and go on and substitute a proper and adequate annual salary.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, as chairman of the Committee, I recognize from the temper of the group here that the proposal of dollars by the Committee is beyond their desire of accepting. I don't think we should belabor that point any longer, and I would prefer that we vote on the matter now and vote against Mr. Boswell's proposal so that we could reduce to some more suitable figure on an annual salary plan the Committee proposal.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: If I may say a few words in closing, the debate on this has covered a much broader scope than this amendment would indicate, and I think it is proper that it has. The question of the method of payment and the length of the sessions are bound up together. We can't get away from that fact and we have to consider them together. I was particularly impressed by Delegate Taylor and Ralph Rivers comments on this amendment, speaking from their experience. They pointed out that many people who would make good legislators did not leave their business and go down to the legislature for an indefinite period of time. I think that is a very important point. I think we also have to face the fact that

Alaska is seasonal. We have to make hay when the sun shines up here, and we should do this legislating in the winter when we can. If we would just take our own personal point of view, how many of us could have come to this Constitutional Convention if we had not known how long it would last or that after we are through we might be called back for another month or two during the summer when we are busy? I think it would have ruled out a number of the delegates from attending this Convention. I think it would do the same thing in the legislature. I don't want to see anything get into this article that will not permit capable legislators from being elected, and I think we are more likely to do this by annual indeterminate lengths of term than we are by the methods of payment. I would urge the adoption of my amendment as a first step toward setting up a legislature that will attract capable people, and then I think we must go further and determine the length of the terms. I cannot see from some of the argument that these early sessions of the legislature are going to run for several months. We have laws on our books that will continue to be in force, and we can gradually augment those laws to fit our constitution, and it seems to me we can still do that over a period of two or three years and not have to be in session for six months or an indeterminate session. I think our money would be better spent in between sessions by having good consultants and a good advisory staff for the legislature and to have a good Legislative Council cut down the terms of the legislature, use that same money in between times, and I think we will have better legislation, and we can keep these terms to something more people will feel they can run for the legislature and not be interfering with their business, I think we will have better legislators.

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

CHIEF CLERK: "Strike the first two lines of Section 7 and the word 'Governor' in the third line and insert in lieu thereof: 'Each member of the legislature shall receive for their services and per diem a sum not to exceed one three-hundred-sixtieth of the annual salary of the Governor for each day's attendance while the legislature is in session,' Strike the comma after salary in line 8, insert a period, and strike the remainder of lines 8, 9, and 10."

V. RIVERS: I have an amendment to offer to the amendment and I would say strike the words "and per diem" and strike from the amendment the words referring to the last three lines which are lines 8, 9, and 10. I offer that amendment because I don't have the copy of the amendment before me. I would remove from that the term "and per diem" from the consideration of services, and the per diem would then be established by the legislature.

BOWSELL: Mr. President, the reason I put that "and per diem" where I did --

PRESIDENT EGAN: Mr. Boswell, if the Chair may, I don't think we are proper. Mr. Victor Rivers, did you move the adoption of the

amendment?

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

BARR: I second the motion.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: It seemed to me if we set a high salary here which we would do and not include the per diem in it, we would include it elsewhere. A great deal of that high salary is going to go in taxes, and the legislator himself is not going to benefit much by the change. If we keep the per diem and the high salary together in our constitution, then the legislature can decide when they get there how much of that they want to make salary and how much per diem and trust to their own good judgment how they would handle that.

SUNDBORG: I move that Mr. Boswell's amendment be laid on the table.

V. RIVERS: I second the motion.

PRESIDENT EGAN: We have before us at the present time the amendment to the amendment as offered by Mr. Victor Rivers.

V. RIVERS: My amendment would automatically fail if his motion carries.

SUNDBORG: I want to get rid of that whole thing.

PRESIDENT EGAN: Chairman of the Rules Committee, can we revert back to the original amendment in order for the motion to lay on the table, or would we have to move that Mr. Victor Rivers' amendment to the amendment would -- if there is no objection, the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg, what came into the mind of the Chair was the manner in which you stated the motion would not be in order; if anyone wishes to move any motion of that nature you would move to lay the amendment to the amendment on the table, and if it carried it would take the original amendment with it.

RILEY: No.

SUNDBORG: I hear the Chairman of the Rules Committee here saying "no".

PRESIDENT EGAN: If there is no objection, we will then have a minute recess.

RECESS

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

SUNDBORG: Mr. President, I ask unanimous consent to withdraw my motion to lay Mr. Boswell's motion on the table.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Sundborg to withdraw his motion to lay Mr. Boswell's motion on the table. Is there objection? Hearing no objection, it is so ordered. Mr. Victor Rivers.

V. RIVERS: Mr. President, in order to clear this matter up and open the way for the motion that has been withdrawn, I will now ask unanimous consent to withdraw my amendment to the amendment.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to withdraw his proposed amendment to the amendment. Therefore, the question before us is, "Shall the proposed amendment as offered by Mr. Boswell be adopted by the Convention?"

WALSH: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment by Mr. Boswell.

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

Yeas: 19 - Armstrong, Barr, Boswell, Coghill, Kilcher, King, Laws, Londborg, Nerland, Poulsen, Reader, R. Rivers, Robertson, Stewart, Sweeney, Taylor, Walsh, White.

Nays: 33 - Awes, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Riley, V. Rivers, Rosswog, Smith, Sundborg, Wien, Mr. President.

Absent: 3 - Doogan, Johnson, VanderLeest.)

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

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

GRAY: Mr. Chairman, I have an amendment.

PRESIDENT EGAN: You may offer your proposed amendment. Mr. Taylor.

TAYLOR: I have an amendment I would like to offer, Mr. President.

PRESIDENT EGAN: You can leave it on the Chief Clerk's desk. The Chief Clerk will please read the proposed amendment as offered by Mr. Gray. Mr. Hellenthal.

HELLENTHAL: Point of order. I have been told that the Committee has an amendment. Perhaps it might save a lot of time if the Committee would come forth with their amendment.

PRESIDENT EGAN: Well, we have recognized Mr. Gray and his amendment. Is there a Committee amendment available? Would the Chief Clerk please read Mr. Gray's amendment.

CHIEF CLERK: "Section 7, line 4, delete the words 'one-third' and insert the words 'one-tenth'."

TAYLOR: Mr. President, Mr. Gray's amendment is the same as mine. I would like unanimous consent to withdraw my amendment.

PRESIDENT EGAN: It has not been offered yet.

GRAY: I move the adoption of the amendment at the rate as read.

TAYLOR: I ask unanimous consent.

BUCKALEW: Objection.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Gray.

GRAY: I believe that this salary, this dollars and cents becomes a very important situation, and I am not completely sold on one-tenth myself. It looks like the best that I can see, but I sure don't want to hold any too little discussion on it because I believe it is a very important factor. If there is one thing I ran into in the hearings, it was the salary of one-third, because on the first apparent side it was very high, so on this one-tenth let's get our figures straight. One-tenth of \$22,500 is \$2,250. If we follow our past experience, as someone has suggested, it will be a 60-day session once a year and that would break down to a salary payment of \$37.50 per day. Our present per diem is \$20 per day which would pay your legislators at the rate of \$57.50 per day total. That is in comparison with the present \$35 per day. And for 60 days, a two-month session, that would pay your legislator \$3,450 or about \$1,700 a month. The total cost of a 60-day session would be -- \$3,450 times 60 days would give you \$207,000, is what your 60-day session would cost you. Out of this \$207,000 per year, \$135,000 would be the cost in salary, and the remaining figure, some \$70,000, would be the cost of per diem. Now actually the only figure that you are making permanent in the constitution is the one-tenth in case we do have a change in economy where the governor's salary goes up, why the legislature's salary goes up with it.

You also have a change in the per diem which is left with the legislature. They can raise the per diem or they can lower it. We are just using the figures of per diem as we are using them today. The figure on the governor's salary, we are projecting on that, we have \$22,500 and it is the most acceptable figure, but it could be less, it might be more. I follow the Committee plan wholeheartedly that they have presented, and it is just in my own mind it has been insufficient discussion, but in my own mind one-tenth of the governor's salary seems the most adequate figure to me at this time.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, there is only one thing I want to caution this body about. I think the figure is too low. We have no assurance that the legislature is going to pass any per diem. They have the authority to do so. Now, as I understand it, it figures out \$37.50 per day salary on a 60-day session. I predict that is what they will get, because you won't get the rest of the legislators to provide any per diem, and the legislators that have a little money are going to stab the boys that are not in the same economic position, and I don't think that \$37 as a salary for a legislator is sufficient. I think the figure "one-tenth" is entirely too low. I think we ought to figure the salary on the assumption that there is not going to be a provision for any per diem because I predict that is what is going to happen.

KILCHER: I am generally in favor of this way of arriving at a salary, but I would like to ask a question. Who establishes the governor's salary in the future?

BUCKALEW: The legislature.

KILCHER: Isn't it probably questionable to hitch the legislature's salary to the governor's, so they indirectly can increase theirs by increasing the governor's? I can see that in the way of a political football.

V. RIVERS: The executive article states that the legislature would establish the salary. The Territory of Hawaii in their Constitution adopted a fixed salary as a minimum which was \$18,000 for the governor. We are continually comparing the governor's salary here to the judges which are \$22,500. Whether he ends up with that or not is up to the legislature.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to point out that if Mr. Gray's suggested figure here is approved that there would be 12 states in the United States that would pay, reducing to a common denominator now the salaries of all the states and the legislative pay therewith, there

would be 12 states in the nation with paid salaries per annum greater than that introduced in the amendment by Mr. Gray. There would be 36 that paid lower per annum compensation. To follow up on this, I would like to read very briefly, it will take me about three minutes, a little bit from this pamphlet, The Great Unwatched, which is condensation of five articles which were condensed and reported in the Readers' Digest during the last several years, relative to the state legislatures of the nation and how they have fallen behind in their revisions, fallen behind with the times. The title of the subheading is this: "What of the Pay of Our Legislators?"

"New Hampshire's lawmakers haven't had a raise since 1784. They are still paid at the rate of \$200 a session, a sum written into the state constitution when a man could get a hotel room for 50 cents. Rich New York and Illinois now pay legislators the tops of \$5,000 yearly, which is less than a first-class machinist earns. Fifteen states pay between \$5 and \$10 a day which can't even cover room and board at the state capital. In Texas the pay is \$10 daily for 120 days; then it drops to \$5 a day. This collapsing pay scheme is used by special interest groups to their advantage. In the last session a bill to tax natural gas pipe lines was delayed by lobbyists until the 120th day, in the hope that the tax's champions, unable to live on \$5 a day fee would go home. Instead 19 idealistic legislators moved into a one-time Texas fraternity house. There in the state of oil billions, they were kept from hunger by gifts of food from charitable neighbors. The bill went through. It may mean \$12,000,000 yearly to our state treasury."

I would like to read just a bit more on what the ills of this low pay to our legislators might mean right here, our new State of Alaska. "Bribery is unpleasant but ever-present factor of legislative life. According to a veteran Illinois house member, lobbyists in one famous legislative struggle gave out \$50 bills in the men's washroom. In Florida, legislators told me that in one classic struggle between competing race tracks, the bidding for votes ran as high as \$5,000 apiece. Said a former house member, 'Why we've had members who have made enough in one session to set them up for a couple of years.' In New Jersey, an influential state senator, a lawyer, shed some light on a widespread practice. 'A group of undertakers asked me to draw a bill for them', he related. 'They said we suppose you want a \$5,000 fee. They didn't want to buy my legal services, they wanted my influence in the senate.' He turned them down. 'What bothers me most,' says a representative of a San Francisco taxpayers' group, 'is watching the corrupting process begin. Fine, honest men come up here, but the pressure plays against the weakest part of their nature. How many times can a lawyer turn down a retainer or an insurance man turn down a commission?' In Nebraska, a former member of the legislature told of a lawyer colleague who regularly found in his mailbox a \$100 check, a retainer from a small loan company interested in keeping loan rates high. So many legislators take fees from special

interests that some legislatures as in Massachusetts bar lawmakers from voting on matters in which they or their clients have an interest. The rules look good on the books, but how often are they invoked in question. There are other ways than

fees to a legislator's heart. The simplest is to put him on the payroll. The New Hampshire Jockey Club's Rockingham Park racetrack, with an interest in the state's racing laws, once hired 30 state legislators. The lawmakers parked cars, ran errands, sold tickets, policed the grounds; these chores so interfered with legislative business that nonracetrack employees in the New Hampshire legislature passed a law to get the boys back into the legislature during the session. There had to be a law -- the racetrack paid \$18 a day, the state less than one." I would like to point to a page of the Hawaiian Manual, which was a summary study made prior to the Hawaiian Constitution. Again, briefly to this summarization of the state legislative salaries, reduced to an annual figure -- New York, Illinois, New Jersey, New York meeting annually, New Jersey meeting annually, Illinois meeting biannually, are the three highest paid state legislatures in the nation today. May I also point out that in keeping with the times they have held in very recent years three state constitutional revision commissions that we have pointed to many many times here in our arguments with pride, attempting in many moves to follow their footsteps. Why? Because they are keeping pace with the times, and increasing legislative pay goes along with the times. We have tied here in Committee the governor's salary and the legislative pay together. We have taken a salary that is easily and readily changed, and tied to it the legislative salaries with the idea in mind that the legislative pay and the governor's pay must keep pace with the times. I urge you all that you give serious consideration and support to the Committee thinking on this, knowing that the Committee in turn will give support and close adherence to some modification of the actual figures used. but we would like to see the general plan kept.

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

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the Convention recess for 15 minutes. The Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state at this time in order to clear the air relative to a motion to lay on the table, Mr. Sundborg did not withdraw his motion because he had been in error in making the motion. He was in order in making the motion. The main motion before the delegates at that time was Mr. Boswell's motion. Mr. Victor Rivers' amendment to the amendment was a subsidiary or a hearing amendment, and if Mr. Sundborg's motion had carried it would have carried Mr. Victor Rivers' proposed amendment to the amendment with it. Mr. Sundborg withdrew his motion to table in order to avoid any possible confusion

relative to further amendments relating to salary. We have before us at this time Mr. Gray's proposed amendment. Mr. Londborg.

LONDBORG: Mr. President, we heard the reading of Mr. McNees's a while ago, and I think that no doubt all those instances are true, there must be -- maybe a lot more. After all, there have been a lot of state legislatures that have met between the time of the first state and up to now. I think we ought also to consider something like this. I wonder just which legislators are most subject to receiving a little extra money on the side, some of those who give of themselves and of their job and of their own to go down and do the job, or some that would perhaps run because there is a lucrative salary attached to the job. I wonder if they go down there because, if they are not going to be subject to the same temptations maybe because they would consider it a pretty good job, they might even be greedy for a little bit more. I put that out that we ought to consider it and not just be swayed by the fact that the ones that are pinched are the ones that are going to always be the ones on the handout for the lobbyists. I still feel they ought to be paid adequately, but I think we must seriously consider what is adequate.

DAVIS: I would like to suggest that Mr. McCutcheon is not here, and that he should actually be. Here he is. I am sorry. Mr. President, I would like to support Mr. Gray's proposed amendment. I have done some figuring which I think might be helpful to the delegates in connection with considering this matter. Starting with the point, assuming that the governor has a salary of \$22,500 a year, now of course nobody knows what that is, but we have got to start some place. Starting at that point and taking 10 per cent of the governor's salary would figure \$2,250 a year. Now, since the legislators are elected for a two-year period at least, it seems to me it is better to work it on a biennial basis rather than an annual basis, and accordingly I have doubled \$2,250 to get the biennial salary which amounts then on the assumption I have made at \$4,500 a year, I mean for a two-year period. For the purpose of trying to get some place, I have assumed that on an average the legislature would meet two months one year and one month another year during the biennium. That, of course, could be any combination of that, but a total of 90 days in the two years. I think that Mr. Victor Rivers probably was absolutely correct when he says that a legislator has much more to do than the time when he is in session. He holds hearings, he has constituents asking him about this and that. I have never been in the legislature, and I can't set a percentage on time, but to try to arrive at something here I have assumed that 10 per cent of the legislator's time when he is not in session will be spent on Territorial business in connection with his job. Without completely going over it, take 10 per cent of the time that he is not in session, plus the time he is in session, on the assumptions I have made, he would be spending a total of 160 days on state business during the biennium. If we make all of those assumptions, I will admit there are a lot of assumptions there, but if we make all those assumptions on the 10 per cent basis of Mr. Gray's proposed amendment, the legislator's salary as such would come to

\$24.37 a day over the two-year period. Also, make the assumption that the legislature would adopt some sort of a per diem to cover out-of-pocket expenses when they are actually in session. If we assume that we use the same figure we are using here, \$20 a day, that would mean that the legislator's salary would be \$24.27 which would continue all the two years. In addition, when the legislature was in session he would get a per diem which we will assume was \$20 a day, or a total, while he is in session, of \$44 a day. Now it seems to me that is reasonably close to what we have now and reasonably adequate, and I believe that for that reason with all the assumptions I have made, that the 10 per cent is a pretty good figure. I have one further thing which is not strictly in order at the minute, but which I think bears on the whole thing, and I would like to talk to it at this time unless somebody wants to stop me. I am going to suggest, if people are not too unhappy with it, that in line 4 of page 3, Section 7, after the word "equal", we put in the words "of not more than", or something to that effect.

GRAY: "Not to exceed".

DAVIS: Not to exceed 10 per cent of the salary. I would do that for two reasons. In the first place, I think Mr. Boswell had an extremely cogent point awhile ago when he talked about the matter of taxes. If we set the legislators' salary at 10 per cent of the governor's salary, the legislature is stuck with that figure as being a salary. If we leave it as not to exceed 10 per cent, then the legislature can set its own salary up to that limit, and if it wishes can adjust on the per diem to come to the same place, but the per diem portion would not be taxable and actually it should not be because it is out-of-pocket expenses that they have to pay to live away from home. There is one further thing along that line. None of us knows exactly what the ability of the new state is going to be to pay. If we set a fixed amount for salaries in the constitution, we may find that we have set an amount that the state cannot bear. On the other hand, if we leave it a figure up to a percentage, then the legislature can set the salary according to what the state can handle and it is already left in the section as it is that the matter of per diem is completely flexible and within the power of the legislature to handle. That is my thinking in connection with the present proposed amendment.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I have not spoken on the subject yet and therefore I will speak only once. Several matters have come up that I agree with in regard to the salary, and salary and honesty I don't believe go together. I think that if a man were paid \$10 a day or whether he was paid \$200 a day, if he were inclined to take a little money under the table I don't think the amount of the salary would have any effect. The honesty and salary are things that we should not attempt to tie together here. I agree a good deal with Mr. Victor Rivers here. I know that any campaign a man makes for office is

considerable out-of-pocket expense. I know that in my own experience that the loss in the legislature, that is the direct losses, that that is at least \$1,000 a month and besides all of the indirect losses such as business and clients you lose while you are gone. People have lost a number of clients because they said, "Well, when you make up your mind whether you are going to be in politics or whether you are going to practice law, if you decide to confine yourself to the law business, we will bring our business back to your office." There is in addition to that, I don't know what the percentage of the total time would be, but I do know that since coming back from the last legislature that one-fourth of the time in my office has been spent on purely political matters in connection with writing letters to department heads and trying to get things for our constituents, the people here in this division, and in the outlying areas, so that of course takes time besides the expense and some little travel expense along with it, but those are all part of things. No one asked me to run for the legislature, and no one asked me to run for this Constitutional Convention, and like practically everyone here I am losing money every day that I am out here, the same as the rest of you, but we were not sent an engraved invitation to file for this office, so therefore we have no right to complain if we are losing money. The same thing in my opinion applies to the legislature. With me I don't believe that I am so smart that I add any great amount to the legislature; I have some ideas. I go there mainly for the purpose of trying to carry out the ideas of people living in this division that speak to me about and say they want done, and you go there for that purpose and think you are doing some good in that way but I believe that most of the members of this body who have served in the legislature, and a good many of you have time and time again, that it is sort of a bug that you are bitten by which is similar to that of the old prospector going out prospecting for gold. It becomes no more than avocation in that it is a luxury that we feel we can afford ourselves. In connection there, when I speak thereto of the matter of being a luxury, when the most of you fill out your income tax at the end of the year, and it looks like you begin to figure out how you are going to pay that income tax, and then you happen to think, you have forgotten what you made in the last legislature, and you add that on top of the other, then you have got a headache. I think it is largely in politics, it is probably largely an avocation, a certain amount of luxury involved. You go back to the historic principles, back to the days of Roman forum, it was the honor of the senators to sit there. I think as far as the senate goes, it should be that way today. It is an honor to sit there, and it should not require any salary at all. The house of representatives is probably a little different proposition. In conclusion, I do wish to say that I don't think we can look at this on the basis of going down to the legislature and making money, and I for one feel that if we have this in the constitution that it "shall not exceed", I would say "not to exceed 10 per cent of the governor's salary", and then let's not have the highest paid governor in the nation either.

PRESIDENT EGAN: Mr. White, before the Chair recognizes you, the Chair was wondering, Mr. Davis, were you seeking to offer that as an amendment to the proposed amendment?

DAVIS: If it would help I will now offer that as an amendment. I did not wish to make an amendment on an amendment.

PRESIDENT EGAN: The chair thought perhaps it had neglected to recognize the amendment.

DAVIS: If Mr. Gray will accept it, I will offer it as an amendment

PRESIDENT EGAN: Just what would be the proposed amendment to the amendment, Mr. Davis?

DAVIS: "After the word 'to', so it will read "equal to".

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

RECESS

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

GRAY: Mr. Chairman, I ask unanimous consent to withdraw my motion in order to take in the care of Mr. Davis's motion.

PRESIDENT EGAN: Is there objection to Mr. Gray's unanimous consent request to withdraw his original amendment?

TAYLOR: As a second to that motion, Mr. Davis's proposed amendment did not take in the percentage of the salary. It only struck several words.

PRESIDENT EGAN: That is correct, Mr. Taylor, but Mr. Gray's purpose is to allow the proposed amendment just to be an amendment and that it can be rewritten in its entirety.

TAYLOR: I agree to that.

PRESIDENT EGAN: If there is no objection it is so ordered.

GRAY: On page 3, Section 7, after the word "salary", delete "equal to one-third" and insert "not to exceed 10 per cent". I so move.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. White.

WHITE: I will vote for Mr. Gray's amendment because I think it is a reasonable compromise. I would like to agree with what Mr. McNealy said in that it is an admirable aim to try and pay public

officers a salary sufficient to avoid any chance of corruption, but I think it is a practical impossibility. I think we have all had the experience of finding that regardless of what our salary or wage may be, that each time it is increased we find we are just barely living within it any way. I think the two are not connected. In the case of New Hampshire, I happened to have lived there, Mr. McNees, and I think the fact that 30 legislators were on the payroll at Rockingham Park is not necessarily a comment on the pay of the legislature, but more probably on the fact New Hampshire has a 399-member legislature. Also, when you refer to page 9 of the Hawaiian manual, I think you will find those figures are all on a biennium basis, and if Mr. Gray's amendment is accepted, you would find only six states would exceed the pay of Alaska's legislators. Those six would be New York, Illinois, Massachusetts, Ohio, New Jersey and Michigan, all of them big populous states. I am a little concerned about the committee proposal amounting to \$7,500 a year, and as to what it would do to the people available to the legislature. I am afraid that it might result in a situation where a good many of the residents of the State of Alaska who would make good legislators would in actual fact not be available, because I think it allows great limits in the length of the sessions that might result. I would only go on to point out that under Mr. Gray's amendment we would have to go 120 days before we got down to the combined pay and per diem we are operating under now. I think we can reasonably expect that on an annual basis that 60 days would be the more probable result and on a 60-day basis the pay and per diem would amount to \$1,725. I feel that is a reasonable compromise.

R. RIVERS: I have been down there and I think I ought to say a few words. I have thought about the length of sessions and about the thought that Mr. Boswell injected that we do have a code, our Territorial code will be our State code. However, the first session is going to be confronted with about a dozen very important gaps or bills that won't recur later. The rest of our code will be subject to change and amendment as we go along. At the outset we will probably say that where the word "Territory" appears in the code we shall substitute the word "state". We are not going to be starting from scratch without any laws at all for that first legislature. We are going to have to come up with something to fill the game law requirements and various others that are now reserved to Congress. Perhaps the second year there will have to be a 90-day session to get organized, but we have to think of this pretty much of a long-range basis, and I think that for a good many years to come 60 days a year is what our sessions will resolve themselves down to, with a special session now and then to meet emergencies. On that basis then I see that the \$37 per day which is embodied in Mr. Gray's amendment plus this conjectured figure of \$20 per diem would make \$57.50 per day. That is basically what the members would be getting for those regular sessions of 60 days per year. As far as the per diem is concerned, I think the legislature can take care of itself. Somebody had the nerve at one

time to put in for \$10 per diem, back about 1937. That was raised next to \$15 per day and then to \$20 per day in the 1953 legislature. They got a few little curves tossed at them and a few snide remarks, but there was no great arousal about the subject because that was absolutely fair and they had it coming. With the precedent of \$20 a day, I rather suspect that one of the first things that the first legislature will do is to hop on that precedent and establish \$20 a day per diem. I don't think they are going to be under any political compulsions to prevent them from establishing that \$20 per diem. I am kind of taking up a few points as they have been brought up. So I differ a little with Mr. Davis in that I would postulate 60 days a year instead of 60 days one year and 30 days the next, and I think that would be something we ought to think of and more or less figure out what the daily amount will be. Now, I am also concerned with selling this package when I get back from this Convention, helping sell it in other words. The \$57.50 per

day does result on the basis of 60 members in the legislature, for a year and \$204,000 for a year and \$408,000 for a biennium. Now that does not count Legislative Council expense nor travel. Now that is going so far beyond what we are accustomed to, and we have been confronted so often with the thought we may not be able to afford statehood, that within the realms of fairness, we have got to watch our step and not get something we cannot handle when we go back to the voters for ratification, so I favor Mr. Gray's amendment. I hope I have contributed a little bit on what we might estimate as the length of the session and on that basis we can compute how much money is going to have to be spent, with fairness to the legislators and yet without getting ourselves into too liberal a position from the standpoint of pay.

COGHILL: Mr. President, on the same lines that Mr. Rivers has been speaking on, I am not in favor of the Gray amendment from the standpoint I feel that we should leave it to the legislature of the new state. We have a package to sell the people. We have to sell them on the constitution for the new State of Alaska. and I believe hinging on that is eventual statehood for our Territory. I see that many people here that are members of the same organizations that I am and there is no remuneration for travel expense or anything else such as in the Chamber of Commerce or your veterans organizations, the organizations such as school organizations, etc. I have spent many a dollar not figuring any gain for myself personally, but for the point of gaining services and things for the people of the Territory. I feel that the argument is completely off base, and we are begging the issue. I see that the average income of the more populated areas of Alaska and the hinterlands is way lower than what we are bringing about here for our legislature. I like the section in No. 8 because it provides the legislature to establish the time that they will meet, and I feel that possibly legislative time such as they have in California, where they meet for a certain length of time and introduce nothing but bills without appropriations and recess for a period of 15 to 30 days for either research or hearings, or what-

ever they wish to do, and when they reconvene it would be nothing but appropriation bills that could be introduced, in that way speeding up the legislature. I feel that by establishing a 10 per cent clause in there we are damaging the clause of the Convention and we should leave it up entirely to the legislature. I feel they will be guided by their conscience.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I am rising to speak against the amendment on this ground. I do not believe it is adequate. I believe we are creating an aristocracy of wealth such as Mr. McNealy referred to in the ancient Roman senators, and I believe that the workman is entitled to his wage on a fair basis, and the businessman is entitled to a fair profit. I agree with Mr. Davis's statement that approximately 10 per cent of his time will be spent in session, I mean the legislator's time; another 10 per cent of his time is a reasonable assumption that it will be spent in the performance of his duties while he is not in session. I think the 20 per cent of a moderate salary which might be \$20,000 established for the governor would be an adequate amount to pay the legislators. It seems to me that I have heard a number of remarks here in regard to corruption in legislators. I for one want to make it clear from the number of legislatures I have seen, I have never yet been approached nor have I seen anyone else approached with a direct offer of corruption. I have seen men prosper because their particular points of view coincided with particular points of view of interest such as they had joint business dealings after the legislature. I have seen other men fail to prosper, probably due somewhat to the same reason, but I believe if we are going to pay at the rate Mr. Davis has stated there, it would come to approximately, using his assumptions, \$24 per day irregardless of the per diem. On that basis he would receive for an hour of his time approximately \$3, which is 'somewhat less than the average laborer gets in this area today when he is employed at his home base. If he is away from his home base he gets a travel and expense account. The average rate a commercial traveller figures his expenses at in traveling through the Territory today is \$20. I feel that if we are going to ask good people to run for these offices that they should be receiving a compensation commensurate with what they would normally receive on a level of activity or operation they would receive at home. I do not feel that 10 per cent is adequate, I feel that 20 per cent would be a much more adequate figure and would not reflect the over-expense that some of the people in this Convention seem to visualize as too much of an added burden for the cost of good lawmaking. Now, whether or not you like the idea, over a period of time the returns that come into the average legislator's pocket from the term of office he serves reflects a great deal in whether or not he feels he can be eligible and will be eligible to run again. I have cited you one instance and know of many instances where good men have gone to the legislature and have received experience which could be useful to all the people but have not

felt they could afford to go back again because of their experience in the first instance. On the grounds of my discussion I am going to move, Mr. President, an amendment of 20 per cent in lieu of the 10 per cent on the original amendment, an amendment to the amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that there be an amendment to the proposed amendment.

MARSTON: If we were having statehood tomorrow I would be happy to vote for this Gray amendment. I think it is fine. I look back at Hawaii, I visited them last year there, and they are terribly discouraged. They have waited five years and their document is gathering nothing but dust, and it is a good constitution. In this changing world we don't know how we are going to fix the salary for five years, ten years off. I think it is a legislative matter, and I am going along with Coghill's suggestion.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I know some people are anxious to get to the question. However, I think by inserting the new amendment, not the amendment to the amendment, but the one before, I am going to speak to the amendment in a minute. We have changed the whole complexion of the section, incidentally which I agree to. I feel now that our section says the legislature shall set its own salary and it shall set it not beyond a certain amount. I am in favor of it. I am also in favor of the amendment to the amendment. Since the legislature is going to set its own salary we should put a ceiling on it, and I think 20 per cent is a reasonable ceiling. I am in favor of the amendment and also the amendment to the amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I believe that I favor also the 20 per cent because I have observed a good many legislatures in action, and I have never felt that they are unreasonable in the amount of money that they set for their own compensation, and that is their per diem, and furthermore, they are always concerned with the amount of money that is coming into the treasury through taxation, and often times some of us feel they are a little penurious with the way they appropriate money. As far as the length of the sessions are concerned, I have never yet seen a session of the legislature that was anxious to remain longer than 60 days, so I feel there should be little apprehension in the minds of the voters about the length of the sessions, or if they are given a ceiling of 20 per cent, I think it might be quite likely they would pay themselves five per cent to start with.

PRESIDENT EGAN: Mr. Barr.

BARR: I certainly agree with Mrs. Nordale. In any session of the legislature in which I served I observed they were more or less a pennypinching body rather than a spendthrift body. I don't know whether it was from fear of public opinion or whether most of them were just looking out for the good of the Territory. They certainly did not throw the money around. I favor the amendment to the amendment of 20 per cent, because of the reason it is only a limit, and I am certain the legislature will not go overboard, and I am also fearful that the governor's salary will not be set at a high figure. Everybody assumes it is going to be \$22,500, but I believe that the legislature is not going to give us the highest salaried governor by any means, and during the transitional period when the legislature knows we will have some unusual expenses they will be cutting down a lot of things. I will not be surprised that the governor's salary is set at \$18,000 or even \$15,000. If the governor's salary goes down, of course the legislature's salary goes down, and since this 20 per cent is only a ceiling, I believe we should leave them a little leeway and then they can give them a certain percentage in salary and a percentage in per diem, whichever way they see fit.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Briefly, I want to point out to the group of delegates that according to analysis by the Hawaiian group, 22 of the states are permitted to set their salary by statute, 24 of the states set it by constitution, and the other states set it by a combination of constitution and statute. These amendments, as they have been offered, appear to be to me personally and I do not speak for the Committee, appear to be more desirable than the paragraph that the Committee has brought out because it does make it more flexible, and by establishing a ceiling certainly the legislature may exercise some judgment in establishing their own salary, but it permits a ceiling and it is a flexible thing rather than a rigid thing such as our Committee brought out. I am going to vote for the amendment to the amendment.

MCNEES: Mr. President, I made a very brief analysis here of the governors' salaries across the nation, again from the Hawaiian manual, and I find that 31 of the 48 states pay their governors \$10,000 or more annually whereas 18 of them pay \$12,000 or more. Eight pay \$15,000 or higher; six, \$18,000 or higher; five \$20,000 or higher, and only two, namely California and New York, pay \$25,000.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: With the amendment and the added amendment I think I have finally reached a decision that will satisfy me. At my hearing the people were unanimously against the one-third deal. Mr. Buckalew summed up my argument completely when he stated that it was almost impossible to get by on the amount that you do receive.

You can by watching very closely, but I don't think you should have to worry about money completely, whether your family is going to get by or yourself. This here being the combination of the two, of not to exceed 20 per cent, will still be in the constitution controlled by the legislature, and I think should be an acceptable setup to the Convention.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I favor the amendment as proposed by Mr. Gray, and I oppose the amendment to the amendment since proposed. It is true that it is only an upper limit, and that it would be left to the legislature to set within that limit, but I can hear every opponent of statehood both within this Territory and without this Territory, talking about how this Convention has authorized a salary of \$75 per day for each one of its legislators, has let them meet as long as they please, and would permit them in addition to set per diem of any amount they please. Now I think we have to think of that practical consideration that we do have a constitution to sell. The amendment to the amendment, if adopted, would change the figure really from one-third as it was when we had our hearings to one-fifth. It does add the additional thing of not to exceed that, but it at least is suggestive that that was what it would be, at least to the people of the Territory as they are voting on ratification. I think that one-tenth is enough, and I think that if they need more compensation it can be taken care of as provided in the later part of this section by the unlimited right of the legislature to adjust the amount of the per diem, so I oppose the amendment to the amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I have not had the opportunity of talking on this, and I should like to do so very briefly. I agree with Mr. Sundborg that we have an end product to sell. I am in favor of the Gray amendment, and I should like to say why. If the amendment to the amendment is approved, I can see two public relations firms who are going to be very prominent in this thing before we get through, who are going to have a marvelous sales argument to kill statehood. They are going to say we can't afford it and if the figure is indefinite I can see a bunch of cartoons in our newspapers that are going to say, "Are you willing to buy a pig in a poke?" I believe that in order to sell a constitution and sell statehood to the people we are going to have to have a pretty definite figure. I am satisfied that this \$204,000 per biennium is not going to be too difficult to sell, but if we leave it indefinite, I think we are going to have a tough job. If I were working for one of these two public relations outfits that will probably be prominent in this picture before long, I would certainly get busy and start in on, "Are you willing to buy a pig in a poke?"

HERMANN: On four successive Congressional senatorial hearings on

the subject of statehood, it has been my privilege, which was not always appreciated at the time, to present the fiscal picture of statehood. Invariably the principal opposition that was centered against statehood on the part of the senate or house committees, or members of it, has been on the theory that we cannot afford it, that we have not yet proved that we can afford statehood, so that for four successive hearings which I attended I had to prove that we could. I was extremely successful in doing it because after each hearing they voted that they were convinced that we could afford statehood on the basis of the figures presented by me with the support of the other witnesses who testified in behalf of statehood. I don't want you to make me out too big a liar. I am willing to be corrected and say I have underestimated the cost of holding a legislative session, but I don't want it to be quite to the extent that it would be if we allowed a 20 per cent salary, as has been suggested by this amendment. That according to my estimate mate, unless I have calculated is about \$400,000 a year. The other was \$204,000, this would \$408,000, and frankly, I don't think we can afford it. Now, I am all for a fixed salary, a year round salary for legislators, and I do not approve of the per day payment of legislators or even the per session payment of legislators, as many of the states have established, but I think you are shooting pretty high when you put it at 20 per cent of what may be the governor's salary, or how high that may be we do not know, and I am going to agree with Mr. Sundborg that we should not pass the amendment to the amendment, and my own support will go to Mr. Gray's amendment, which fixes it at 10 per cent of the salary paid the governor.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I am going to support the amendment. As one of the Committee I feel --

HELLENTHAL: I rise to a point of order. I enjoy hearing Mr. McNees speak, and I think everyone else does, but I think that he has spoken more than twice on this subject, and I keep looking at that blackboard.

V. RIVERS: Point of order. Mr. McNees has not spoken on the amendment to the amendment.

PRESIDENT EGAN: I do not believe that Mr. McNees has spoken once to the amendment. You may proceed.

MCNEES: I rise to speak in favor of the amendment to the amendment. Feeling sure that when it comes to selling the end product, the question Mr. Hilscher has raised, that we can best sell that product by giving them good government. We are going to give them good government by attracting adequate men, and we are going to attract adequate men by paying an adequate salary. I have had to do some adjustment in my thinking to reach the conclusion whereby I might even support the amendment. I had hoped it might be somewhat higher. I have in mind very much what Mr. Hilscher has, in

selling the end product to the people, but I feel that there are 55 salesmen in this room who, when this Convention is over, will go out and gladly put every effort necessary and possible to sell it. I don't think there is an organized PA group in the Territory or in the states that will throw their weight against us, that have 55 salesmen who will know the subject, understand the subject and be more sold on the subject of our constitution when it is finished and we have it ready to present to the people, than this group right here. The 20 per cent figure set as a ceiling I am convinced, and that is the big question in my mind, I have come to a conviction in my thinking that possibly we might set it as a ceiling, but I am somewhat afraid and raise this question that the salary of the legislators will probably never approach that figure. I know there are many other ways in which the legislators' salaries might be reduced. We might pay a lower governor's salary and make certain other compensations available to him in lieu of salary, thereby keeping the legislators' pay down -- the provision of housing, providing entertainment, expenses, providing extreme travel allowance, and many many other things. However, I do think as I have analyzed the thinking of this group, that probably the 20 per cent figure comes closest to first and foremost providing an adequate salary to attract adequate men to provide adequate law, and secondly, the penury or economy measure that seems to me uppermost in the thinking in a few of your minds. Therefore, I feel that we should support this amendment, thinking at the same time that it is a maximum and not the actual salary.

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

ROSSWOG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 21 - Awes, Barr, Buckalew, Cooper, Cross, Doogan, Emberg, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNees, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor.

Nays: 32 - Armstrong, Boswell, Coghill, Collins, Davis, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Poulsen, Reader, Riley, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 2 - Johnson, VanderLeest.)

CHIEF CLERK: 21 Yeas, 32 Nays and 2 absent.

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

R. RIVERS: I now move, Mr. President, that the same amendment to the amendment that Mr. Rivers made except make that 15 per cent.

UNIDENTIFIED DELEGATE: Question.

H. FISCHER: I second the motion.

HERMANN: I move we recess until 1:30.

PRESIDENT EGAN: Mrs. Hermann moves and asks unanimous consent that the Convention stand at recess until 1:30. Is there objection? Objection is heard. The question is, "Shall the Convention stand at recess until 1:30 p.m.?" All those in favor of recessing until 1:30 p.m. will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is still in session. We have before us the proposed amendment to the amendment as offered by Mr. Ralph Rivers. Mr. Taylor.

TAYLOR: Mr. President, I was longing to speak on the previous amendment to the amendment that was defeated. I was in agreement on the 10 per cent, not for the fact that I thought a legislator was adequately compensated for his time and the effort and the expense, and the sacrifices he makes by virtue of being a legislator, and through quite a number of years of experiences I know what it costs to be a legislator in time and money. You are operating a business or a profession, and you have to close that business up or go away and leave your profession, you come back and you find you have a far greater loss than you thought it was going to be. That is especially true in the profession of law because if you are gone for two months your office is closed, your entire income at that time. I was torn between two ideas -- one was to a certain extent try to adequately compensate legislators -- the other was the point raised by Mr. Hilscher that if we do place this too high we give the opposition to statehood a wonderful lot of ammunition to try to use in defeating the confirmation of this constitution, and after I was listening to and considering the various arguments pro and con on the previous motion, I got to thinking that possibly the compromise between the 10 and 20 per cent would be the logical solution to this matter, to have it read "not to exceed 15 per cent". It might be with the wording of the article, that we might not as a legislature set it at 15 per cent, might set it at 10 and then attempt in some small way of compensating the legislator by a larger per diem. Now Mr. Buckalew says that he doesn't think the legislature will vote for a per diem. Well, Mr. Buckalew is possibly speaking from inexperience, because I have been going to the legislature off and on for some 23 years and I have never yet

ever seen the legislature. refuse to vote the per diem, and I am pretty sure that if the next legislature will perhaps be the same way, and if Mr. Buckalew was in it, I know there is going to be a great fight for per diem, and I think he is going to make so much noise that the per diem bill will carry. Now we have, what we might say, indulged in conjecture of conclusion as to what the governor's salary is going to be. I think in that respect we have to take into consideration that the governor is the chief executive. He must maintain a position commensurate with the position that he holds. Now, we will have at least one representative in Congress and we will have two senators in Congress. They will each be drawing \$22,500 a year. That is the salary. We will have one district judge in the Territory of Alaska who will be drawing \$22,500 a year, and I think that the legislature would be taking more or less a niggardly attitude if we paid our chief executive less than the representatives in Congress are getting or less than a district judge in the Territory of Alaska, and I think we can safely assume, now it is an assumption as Mr. Davis said very ably in talking on the previous amendment, that we must assume, but our assumptions were based upon experience and our knowledge of other matters, and I agree with those, after giving this the consideration, that I am going to vote for this amendment. I was for the 10 per cent, and if we are censured for saying we are unduly compensating the legislators, we will have to take that censure and make the best of it, and the best way we can explain why, and I think that these 55 members here can go back and say why this bill is written in the way it is.

LUNDBORG: I would like to ask somebody who has a handy handbook around, what is the highest paid legislator now in the states?

V. RIVERS: That is the State of Illinois, that is \$5,000. That does not include travel expense which they allow too, to and from their homes once each week. That does not include per diem.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to refer to some figures again and I will do it briefly. If we adopt the amendment to the amendment which is before us, which would permit a maximum of 15 per cent of the governor's salary annually, and if we postulate a governor's salary of \$22,500, which I agree with Mr. Taylor is reasonable, and if we should have legislative sessions running the same length as those we have had in the Territory, which is 60 days every two years, if we adopt this amendment, we are authorizing those people to pay themselves salaries of \$112.50 per day plus per diem, and if you don't think a lot is going to be made of that, whether by public relations firms or by individuals who are themselves opposed to statehood, you are very much mistaken. I hold to the 10 per cent, and I urge that you reject the amendment to the amendment.

HARRIS: I move the previous question.

BUCKALEW: I second the motion.

HILSCHER: Roll call.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" The Chief Clerk will call the roll.

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

Yeas: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Sundborg, Sweeney, Taylor, White, Wien.

Nays: 15 - Davis, Kilcher, Laws, Londborg, Marston, Metcalf, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Walsh, Mr. President.

Absent: 2 - Johnson, VanderLeest.)

MARSTON: May I change my vote? I wanted to vote against the 15 per cent.

PRESIDENT EGAN: No, we are ordering the previous question, Mr. Marston. The Convention will come to order while the Chief Clerk prepares the tally.

CHIEF CLERK: 38 yeas, 15 nays and 2 absent.

PRESIDENT EGAN: So by your vote you have ordered the previous question. The motion has carried. The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?' Rather, "Shall the proposed amendment to the amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" The Chief Clerk will please read the amendment to the amendment.

CHIEF CLERK: "Delete '10 per cent' and make it 'not to exceed 15 per cent'."

R. RIVERS: Yes, that is correct.

METCALF: Roll call please.

PRESIDENT EGAN: The Chief Clerk will call the roll on the adoption of the proposed amendment.

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

Yeas: 22 - Armstrong, Awes, Barr, Buckalew, Cooper, Cross, Doogan, Emberg, H. Fischer, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNees, Nordale, Peratrovich, Riley, R. Rivers, Smith, Stewart, Taylor.

Nays: 31 - Boswell, Coghill, Collins, Davis, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 2 - Johnson, VanderLeest.)

SUNDBORG: I wish to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Sundborg wishes to change his vote from "yes" to "no".

V. RIVERS: I wish to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Victor Rivers wishes to change his vote from "yes" to "no".

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

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

DOOGAN: I ask unanimous consent that we stand at recess until 1:30.

SUNDBORG: I object.

DOOGAN: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: The Chair did not actually hear a second. Mr. Sundborg.

SUNDBORG: I move the previous question.

TAYLOR: I second the motion for the previous question.

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

SUNDBORG: I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 48 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg. McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 5 - Buckalew, Coghill, Cooper, Laws, Nolan

Absent: 2 - Johnson, VanderLeest.)

CHIEF CLERK: 48 yeas, 5 nays and 2 absent.

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

SUNDBORG: I move and ask unanimous consent that we now recess until 1:35 p.m.

PRESIDENT EGAN: Are there committee announcements to be made at this time? Mr. Hellenthal.

HELLENTHAL: Committee meeting of Committee No. VI upstairs.

V. RIVERS: There will be a meeting of the Executive at 12:50.

PRESIDENT EGAN: Committee No. VI will meet upstairs; there will be a meeting of the Executive Committee at 12:50. The question is, "Shall the Convention stand at recess until 1:35 p.m.?" Is there objection? Hearing no objection it is so ordered, and the Convention stands at recess.

RECESS

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

HILSCHER: Mr. President, the management of the dining room upstairs would like to have a show of hands on how many will be here for dinner this evening. The chef is wavering between guinea fowl under glass and pork chops, though I am afraid it is going to be in favor of pork chops. (Delegates held up hands at this time.) About 45.

PRESIDENT EGAN: Is there anything else to come before us at this time? Any unfinished business other than the proposal before us? We have before us Section 7 of Committee Proposal No. 5. Are there other amendments to Section 7? Mr. White.

WHITE: I have an amendment to Section 7 that I would like to have read. I am not sure I indicated it should come after the last line.

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

CHIEF CLERK: At the end of the paragraph?

WHITE: Yes.

CHIEF CLERK: "Insert at the end of paragraph 7 the following: 'No increase or decrease in salary or per diem shall apply to the legislature which enacted it.'"

WHITE: I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Is there objection?

DAVIS: I would like to have it read again slowly.

EGAN: The Chief Clerk will please read the amendment again slowly.

CHIEF CLERK: "No increase or decrease in salary or per diem shall apply to the legislature which enacted it."

PRESIDENT EGAN: Unanimous consent is asked. Is there objection?

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. White?

WHITE: I so move.

METCALF: I second the motion.

BUCKALEW: I object.

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

MCLAUGHLIN: I have no objection to the intent, but I am prepared to ask Mr. White what happens to the first legislature or are you preparing a transitory provision? If you cannot increase or decrease the salary, then by implication you cannot set it initially.

WHITE: That is a good point, Mr. McLaughlin. I will have to

confess I hadn't thought of that. We will have to treat it, if the amendment passed, in a transitory measure.

SUNDBORG: I have a question, also. It occurs to me that at least in the Territory today we do not have a law which sets the per diem of members. I think it is usually handled by a resolution of the legislature itself.

PRESIDENT EGAN: There is a law.

SUNDBORG: Is there a law covering per diem for legislators? I believe it is a resolution of the legislature.

PRESIDENT EGAN: Mr. Riley, do you have something on that?

RILEY: It is my memory that it has been done, Mr. President, by a joint resolution which has the force of law.

SUNDBORG: In any event, it is done by the session to which it applies, and it applies only to that session. Now if we adopted Mr. White's amendment, it would have to be done by law.

RILEY: Each session has set its own. I think it is well established.

SUNDBORG: They have not set their salary because that is set by the Organic Act.

WHITE: It seems I was under the wrong impression. If each session has set its own per diem, if that is the procedure that has applied to the past, and if there has been no objection to it, I certainly would have no objection to the taking of the words "per diem" out of it.

PRESIDENT EGAN: Are you asking unanimous consent, Mr. White, that the words "per diem" be removed from this particular proposed amendment?

WHITE: I have no objection, I so move.

PRESIDENT EGAN: Mr. White asks that the words "or per diem" be removed from the amendment.

V. RIVERS: I will object.

PRESIDENT EGAN: Objection is heard to the unanimous consent request. Mrs. Sweeney.

SWEENEY: I suppose in order to talk about this I have to second the motion. I second the motion. I want to really ask a point of information here. In Section 5 we say that no member of the legislature, and then a few small blank spots, shall hold, as I read it,

an office or salary which have been increased while he was a member of it. Wouldn't that take care of it? He can't hold any other office that has been established, they can't, increase their own salary or decrease it, as I understand it, so that if the present legislature increases the salary it would be for the salaries of the next legislature and the same with the decrease? I can't see it. I don't see the need for Mr. White's amendment.

SUNDBORG: I believe that that would be the case only if we adopt Mr. White's amendment. What Section 5 says is that, "No member of the legislature shall hold any other office which has been created, or the salary or emoluments of which have been increased while he was a member of the legislature." I think it clearly excepts the office of legislator.

SWEENEY: Mr. President, I would like to ask Mr. McCutcheon, the Chairman of our Legislative Committee, if he did not believe it was the intent of the Legislative Committee to have this apply to the members of the legislature?

MCCUTCHEON: Well, that particular thing is not my recollection. It could be that I don't remember that part of it, and I would ask that you ask some other members of the Committee, as my understanding was that it is our intention to prohibit members of the legislature from holding offices other than the legislature in which they may have had a hand in increasing the salary of or in creating such an office as much as it currently works now.

SWEENEY: Again, as I recall the discussion, we brought out many times that the legislators were a little reluctant to raise their own salary, no matter how necessary it was, because of the criticism that came, and the answer that was brought out in the Committee was that they are not increasing their own salaries because of this section. They may increase it but it will not go into effect until the following legislature. They are not increasing their own salaries. That was my remembrance of the committee hearings on this. If that is not the case I think it should be changed, but I thought that was sufficient.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: It occurs to me that Section 7 pertains just to the salaries and per diem of the members of the legislature. It is my understanding that the Convention this morning fixed a ceiling on their salaries by amendment. I don't see how then that they could later be given the right to increase that salary without conflicting with the first part of the section, unless it is intended to be an exception.

WHITE: This amendment would not have any point if the salary were fixed, Mr. Johnson. A salary is no longer fixed. A ceiling is set, so the salary can fluctuate anywhere it wants under that ceiling.

JOHNSON: Down, yes, but not up.

WHITE: Once it is down it can fluctuate back up again until it hits the ceiling.

GRAY: I feel it was just by accident we put it in "not to exceed". We might very well have established the 10 per cent, and I think we have sufficiently put the ceiling on the legislature as it is, and I would not even go any further in trying to limit the legislature. They are pretty well limited as it is right now.

V. RIVERS: Mr. President, the reason I would concur in Mr. Gray's statement, they are pretty well limited actually to where I feel that the men who will be elected to office sometime after we become a state will be those who have substantial subsidies to provide for their election. I do not see any value or merit in the amendment as it is offered. Under that amendment, including the word "emoluments", the legislature as a group could neither increase up to the ceiling we established nor could they increase their per diem, as I interpret the word "emoluments". It does not seem to me a safeguard that is at all needed. We have a legislature that is going to appropriate all state funds for all offices, all departments, all individuals employed. We are going to disburse probably in the first parts of their early years as much as 15, 18, or 20 million dollars a year and now we are going to stop them from raising up within the very low limit, which we have already set, to that limit in any one year in which they may hold office. I have no brief with the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: I just want to say about three words. I don't think this will accomplish what Mr. White intends. He intends to limit the legislature. Right now they are limited by public opinion as to the amount they vote themselves. If this amendment goes into effect then they would have to vote an increase for the benefit of the following legislators and the following session, and they would feel that they could very well increase it to a larger amount without criticism if they did not enjoy any of the benefits. Therefore, they are likely to increase it to a greater amount that way. This removes the criticism of public opinion.

WHITE: I don't follow Mr. Barr's reasoning. The reason for the amendment is merely to allow any discussion on the salaries of legislators to take place on an unbiased plane without reference to politics or public opinion at the moment. To reduce the question to its simplest terms, should the legislators have a higher salary or should they not, without any undue pressures being brought to bear on the men and women debating at the time?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as it would read at this time?

CHIEF CLERK: "Insert at the end of the paragraph the following: 'No increase or decrease in salary or per diem shall apply to the legislature which enacted it.'" Except the amendment now is to strike "or per diem".

PRESIDENT EGAN: Was there a question as to how it would read with the proposed amendment? Did we act on the amendment to the amendment?

CHIEF CLERK: No.

PRESIDENT EGAN: That is what is before us.

SUNDBORG: My recollection was that the amendment to the amendment was requested by unanimous consent by Mr. White and Mr. Rivers objected to it and it was not moved.

CHIEF CLERK: Mrs. Sweeney seconded it.

PRESIDENT EGAN: No, that is correct, Mr. Sundborg, it was the amendment to the amendment that Mrs. Sweeney seconded, so we have the proposed amendment to the amendment. Would the Chief Clerk please read it again.

CHIEF CLERK: "To strike the words 'or per diem'."

V. FISCHER: I would like to ask Mr. Rivers, if I may, why he objects to the striking of "or per diem".

V. RIVERS. I would not mind answering that question. I seems to me that if they are going to handle -- I understood the word "emoluments" to be in there and I objected to the word "emoluments" -- but I did not get the reading of the section as it stated "per diem" because I thought "emoluments" would cover also "per diem".

V. FISCHER: Would you withdraw your objection so that we can just vote on the salary only?

V. RIVERS: Yes, I will withdraw my objection.

PRESIDENT EGAN: The objection is withdrawn. Mr. White asks unanimous consent for the adoption of the proposed amendment to the amendment.

RILEY: I will object for the purpose of addressing a question to Mr. White. I don't think it is your intent is it, to deny the legislature the ability of the choice of decreasing their salary, is it?

WHITE: Yes, any change.

RILEY: Does the legislature enact a salary or does it adopt a salary?

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V. FISCHER: Aren't we discussing the matter of the elimination of the words "or per diem"?

PRESIDENT EGAN: That is right. Mr. McNees.

MCNEES: Would you object, Mr. White, to the elimination of the words "or decrease"?

V. FISCHER: Point of order, Mr. President, could we not dispose of the words "or per diem" once and for all?

PRESIDENT EGAN: We have not disposed of them yet. That is the proposed amendment to the amendment.

V. FISCHER: That is right and I am suggesting that before we start changing other words that we strike the words "or per diem" as asked by Mr. White.

MCNEES: I will reserve my question until later.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the deletion of those words, "or per diem"? If not, the proposed amendment to the amendment is ordered adopted, and the words have been deleted. Mr. White.

WHITE: Mr. President, in answer to Mr. McNees's question, I would object. I think if there is any logic to the argument that discussions of salaries should be kept free from pressures of the moment, the logic in it could be applied as to whether the movement is up or down equally well.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I disagree with Mr. White. I think if the same logic were applied you would have to have it read somewhat like this: "No salary could be increased in the next legislature and the decrease should apply to the one that decreased it." That would be perfectly logical.

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

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

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

CHIEF.CLERK: "Section 7, line 4, strike all material in Section

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7 following the first word 'salary' up to and including the word 'governor' on line 5."

BUCKALEW: I move the adoption of the proposed amendment.

AWES: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. The Chief Clerk will please read the proposed amendment again.

CHIEF CLERK: "Section 7, line 4, strike all material following the first word 'salary' up to and including the word 'governor' on line 5."

PRESIDENT EGAN: Could the Chief Clerk please read it as it would read.

CHIEF CLERK: "Each member of the legislature shall receive an annual salary and shall be entitled to travel expenses in going to and returning from sessions."

BUCKALEW: Mr. President, the proposal when it came out of the Committee attempted to guarantee minimum wage for legislators. That is the reason that the test originally originated, tying the legislators' salary to that of the governor. The way it has been amended, it has no logical reason for its retention. It does not provide for a minimum salary and I think it is an unrealistic test just put in there to perhaps limit the legislators in setting their salary. Now we trust the legislators to enact all our laws, and I think we can trust them to set their salaries. I was listening to one of the arguments before lunch, and I got the impression that I thought I was a delegate to the Constitutional Convention, but after listening to some of the arguments I thought it was some kind of package sale. Now, using their argument I think it would cause less concern if we just left it up to the legislature. As I say, the reason the test was put in was to provide and protect the legislators for a minimum salary. That is out of the window now, it does nothing, so there is no logical reason for its retention. I think we just ought to leave it up to the legislators, and I don't think the soap salesmen can cause us as much trouble.

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

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 28 - Awes, Buckalew, Cooper, Cross, Doogan, Emberg, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy,

McNees, Marston, Nolan, Nordale, Peratrovich, Riley,
V. Rivers, Stewart, Sweeney, Wien, Mr. President.

Nays: 23 - Armstrong, Barr, Boswell, Collins, Davis, H. Fischer,
V. Fischer, Gray, Hellenthal, Johnson, Laws, Metcalf,
Nerland, Poulsen, Reader, R. Rivers, Robertson,
Rosswog, Smith, Sundborg, Taylor, Walsh, White.

Absent: 4 - Coghill, Hilscher, Londborg, VanderLeest.)

SMITH: I would like to change my vote from "yes" to "no".

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

METCALF: May I change mine from "yes" to "no"?

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

CHIEF CLERK: 28 yeas, 23 nays and 4 absent.

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

V. FISCHER: In line with the amendment just approved, I just happen to
have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as
offered by Mr. Fischer.

CHIEF CLERK: "Section 7, page 3, strike the first sentence and
substitute the following: 'Members of the legislature shall receive an
annual salary and expense allowances as prescribed by law, but the
amount thereof shall neither be increased nor diminished during the term
for which they are elected.' In line 8 replace the comma by a period and
strike the remainder of the sentence."

V. FISCHER: I move the adoption of this amendment and ask unanimous
consent.

UNIDENTIFIED DELEGATE: Object.

PRESIDENT EGAN: Mr. Fischer moves the adoption of the amendment and asks
unanimous consent. Objection is heard.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I might explain that some of the language in the

the beginning of the first sentence is slightly changed to round it out, and of course the last two lines are stricken because we take two lines to say what is said here in two words, but the main point is that a minute ago we did vote down Mr. White's amendment which was related to an annual salary, one-tenth of that of the governor. In the main, arguments against that were made on the basis that we were setting a ceiling upon that salary. However, if there is no ceiling, we should provide for this clause that they may not increase their own salary and with that the decrease, the main reason for that being that certainly the onus of public opinion may be upon the legislature. However, if they do that in the first or second day of session, the onus will be worn off by the time the next election comes along. In the meantime, they do enjoy the benefit of their own action. I might further point out that in the Hawaiian Manual again on, I think it is page 8, we have a statement to the effect that, "Legislative salaries vary in different states and regions. In 27 states the salaries are now fixed by the constitution while in the remaining 21 states this matter is determined by the legislative bodies themselves", as we would up here. "In the latter case, provision is ordinarily made that such compensation may not be increased or decreased during the term for which the members have been elected." I think that there is no end of logic in that kind of a provision, and I might say that the phraseology of the amendment is based upon the model state constitution, and I certainly hope it will be adopted.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, one thought occurs to me. The senators will be elected for four-year terms, I suspect, on a staggered basis, so if they could not have their salary increased during their term, you would have half the senators during a particular session drawing one scale of pay and the other half of the senators drawing a lesser scale of pay. Now I should say, you might say for the session or during the calendar year they enacted their measure.

V. FISCHER: I would certainly be agreeable to that kind of a change.

PRESIDENT EGAN: What kind of change would that involve, Mr. Fischer?

V. FISCHER: The amount thereof shall neither be increased nor diminished during the session at which it was enacted.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: You mentioned the model state constitution, you might want to use the language.

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

RECESS

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

V. FISCHER: Mr. President, I ask unanimous consent for permission to withdraw my amendment.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that his amendment be withdrawn. Is there objection?

BUCKALEW: I am objecting to find out the purpose.

V. FISCHER: For the purpose of introducing a revised amendment.

PRESIDENT EGAN: Is there objection? If there is no objection, so ordered. Mr. Fischer.

V. FISCHER: I would now like to introduce a new amendment.

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

CHIEF CLERK: "Section 7, page 3, strike the first sentence and substitute the following: 'Members of the legislature shall receive an annual salary and expense allowances as prescribed by law, but any increase or decrease in salary shall not apply to the legislature which enacted the change.' In line 8, replace comma by period and strike the remainder of the sentence."

V. FISCHER: Mr. President, I move the adoption of the amendment.

HERMANN: I second the motion.

KILCHER: Point of information. I would like to ask Mr. Fischer a question. Does the legislature mean a two-year term or maybe it should be "session" to make it clear?

V. FISCHER: I might say that as this was being drafted we used the term "session", but you may have a number of sessions during one legislature and one legislature would apply to a two-year period.

KILCHER: In that case I would like to speak against the amendment. I would like to have you or somebody make an adjustment there to apply to the calendar year. I see that would be sensible, since probably we are going to have two main sessions, and I had thought you would come up that we could word it "a calendar year", but I don't think it would be fair to apply it to a two-year legislature. I had been in favor as long as it was meant to be understood to be one year or one main session, but not legislature in the sense of two years.

V. FISCHER: May I answer that? I might say that the intent here and in most constitutions is that the legislature which enacts the change not make the increase which it usually is applicable to itself, and that is the main reason, rather than making the change one year so that it applies during the second year of that legislature.

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

V. FISCHER: May we have it read once more?

CHIEF CLERK: "Section 7, page 3, strike the first sentence and substitute the following: 'Members of the legislature shall receive an annual salary and expense allowances as prescribed by law, but any increase or decrease in salary shall not apply to the legislature which enacted the change.' In line 8, replace the comma by a period and strike the remainder of the sentence."

RILEY: Mr. President, I would like to direct one inquiry to Mr. Fischer. I note that the Committee language distinguished between travel expenses and per diem, and I am sure that Mr. Fischer intends that expense allowances include each. Am I right?

V. FISCHER: Yes, I would certainly intend to cover both.

RILEY: I would also like to address a question to Mr. McLaughlin. I am wondering, Mr. McLaughlin, do you see anything in this language of the proposed amendment that might parallel your objection to that first proposed by Mr. White in the setting of the first salary?

MCLAUGHLIN: I presume that again they are going to have a transitory provision to handle any of this.

RILEY: I simply wanted to call attention to that to the minds of the mover.

HELLENTHAL: What is the necessity for the second sentence? Why have the sentence reading, "The presiding officers of the respective houses may receive an additional salary"?

V. FISCHER: I don't know, the committee put that in.

V. RIVERS: I will answer that question in this regard. The presiding officers of both houses are often called upon to perform a good many additional duties which generally constitute a certain number of duties after the official session is over, and on the basis of that session being over, there is generally an allowance made for the time it takes them to go over the journal with the chief clerk and get the statutes ready for presentation to the printer, and it involves anywhere from one to two weeks.

HELLENTHAL: Thank you, Mr. Rivers. My question was more directed to the constitutional or legal necessity. I wondered if there had been an opinion or expression somewhere that such language was necessary. I personally believe that the first sentence is adequate constitutional justification for furnishing additional salaries to the presiding officers.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, this morning when I addressed the body in regard to the Gray amendment I pointed out the fact that the first question always asked at a congressional hearing and probably the last one also is, "Can Alaska afford statehood, where is her income, and what is her outcome going to be under statehood?" I think this amendment of Mr. Fischer's very adequately puts us in a better talking position to both Congress and to the public of Alaska that we want to ratify this constitution. We have left it to the legislature to set up salaries. There can be no accusation, justified or unjustified, to the effect we have gone hog wild and are spending money or are preparing to spend money beyond our means, and I think that this places the responsibility for fixing the salaries of legislators squarely where it belongs, on the legislature, and for that reason we should vote "yes" to this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have a question to address to Mr. Fischer. I wonder if he has given consideration to the fact of whether the allowances he mentions in his amendment to Section 7 would cover the allowances which are referred to in Section 10. That is, the allowances that may be, it says members of the council, that is the Legislative Council, may receive an allowance for expenses. Would it be impossible for a legislature to set the allowance that would pay the members of the Legislative Council for their activities between sessions?

V. FISCHER: I would certainly say "yes" under this language one says "allowance for expenses" and in the amendment it says expense allowances" so that would certainly cover exactly the same ground. The intent certainly would be to cover travel, per diem for expenses incurred during the session and during travel or any other time while performing the duties of a legislator.

SUNDBORG: So a legislature could not raise or lower the allowance of the members who would be serving between sessions during that legislature on a Legislative Council?

V. FISCHER: I might say that the increase and decrease applies only to salaries, not to the allowances.

SUNDBORG: Is that correct? I am sorry, I misunderstood you.

MCNEALY: First, I would like permission of the Chair to address a question to Mr. Fischer.

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

MCNEALY: On the point Mr. Ralph Rivers raised some time ago here, if we changed the pay scale in the legislature for a period of time would you have senators on a different pay scale under this wording?

V. FISCHER: Under this wording the increase would be applicable except to the legislature which enacted the change. That would apply even to a senator during whose first half of the term the increase was enacted, and I think in line with that Mr. Rivers was agreeable to the amendment.

MCNEALY: I would like to say that I am opposed, probably not strongly opposed, to the amendment especially in a section there about allowing expenses. Now, the historic and the legal terms that have been used for years has been travel expenses, per diem, and when we talk about we have an allowance for expenses to the legislature to pay for postage for mailing, etc., and whether these words here, "allowance of expenses", would cover all of those, or whether it would appear they were left out. Maybe this discussion here, sometime you might get back to the journal or back to the stenotype report and find out that we had intended to mean this, but I can see no good reason unless it is meant to limit why it should be left out. On the matter of transitional measures I object to saying that it is going to be easier and still easier as time goes on, and say I am chairman of this committee and it would be easy to say, "Well, we will leave this matter up to a transitional measure." Well now, ordinances and transitional measures are matters that are more or less uniform in these constitutions. We have not studied any constitutions that have provided for setting up of salaries in the ordinances. You go back even in the early days and the schedules and ordinances merely provide for the first legislature and provide for the matter that they get into operation, but in all the old ones, and I can't speak offhand from the Hawaiian Constitution at the moment, but from all the old ones, why evidently the first legislature went ahead and set their own salary, and I question whether there should be another hassle on the floor here in its regard. If we do have to write a transitional measure to cover this, if this amendment is adopted, then we will be fighting around how much we are going to pay them for the first year. I think it should be settled, and the amendment defeated.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I don't think that the precise language of the amendment would necessarily even preclude the first legislature from setting its own salary. It says "they may not increase or decrease", but they may certainly set it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer 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: 25 - Armstrong, Boswell, Cross, Davis, V. Fischer, Harris, Hellenthal, Hermann, Hurley, Johnson, Knight, Lee, Marston, Nerland, Poulsen, Reader, Riley, Robertson, Rosswog, Smith, Stewart, Walsh, White, Wien, Mr. President.

Nays: 26 - Awes, Barr, Buckalew, Collins, Cooper, Emberg, H. Fischer, Gray, Hilscher, Hinckel, Kilcher, King, Laws, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Sundborg, Sweeney, Taylor.

Absent: 4 - Coghill, Doogan, Londborg, VanderLeest.)

R. RIVERS: I want to change my vote to "no".

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

CHIEF CLERK: 25 yeas, 26 nays and 4 absent.

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

NORDALE: Mr. President, at this time I would like to give notice of reconsideration of my vote on Mr. Buckalew's motion.

PRESIDENT EGAN: What motion was that, Mrs. Nordale?

NORDALE: The motion to strike "not to exceed 10 per cent of the salary of the governor", and then there was more to it I guess.

PRESIDENT EGAN: Mrs. Nordale serves notice of her intention to reconsider her vote on Mr. Buckalew's amendment that dealt with the salary. Mr. Sundborg.

SUNDBORG: May I address a question to Mrs. Nordale?

PRESIDENT EGAN: You may, Mr. Sundborg.

SUNDBORG: Mrs. Nordale, would you have any objection to taking that matter up at this time rather than tomorrow?

NORDALE: If I may have a few moments recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 7? Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that Mrs. Nordale's motion to reconsider her vote on Mr. Buckalew's amendment be taken up at this time.

METCALF: I second the motion.

JOHNSON: I object.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that Mrs. Nordale's motion to reconsider her vote on Mr. Buckalew's amendment be taken up at this time. Objection is heard.

SUNDBORG: I include that in the motion that the rules be suspended and that Mrs. Nordale's motion be taken up at this time.

HURLEY: Is this debatable or may I ask a question or is it out of order?

PRESIDENT EGAN: It is not supposed to be debatable. You may ask a question if there is no objection.

HURLEY: All I want to know is if Mrs. Nordale agrees to this move.

NORDALE: Yes, I do.

PRESIDENT EGAN: The question is, "Shall Mrs. Nordale's reconsideration come before us at this time? The Chief Clerk will call the roll. It takes a two-third's vote. The Chief Clerk will call the roll.

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

Yeas: 46 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Nays: 5 - Johnson, Kilcher, Laws, Nolan, Mr. President.

Absent: 4 - Coghill, Doogan, Londborg, VanderLeest.)

CHIEF CLERK: 46 yeas, 5 nays and 4 absent.

PRESIDENT EGAN: So the reconsideration motion has carried and we have before us at this time Mr. Buckalew's proposed amendment to Section 7. The proposed amendment is open for discussion. Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 7, line 4, strike all material following the first word 'salary' to and including the word 'governor' on line 5."

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I favor the reconsideration and the adoption of what for lack of a better phrase, I would refer to as the 10 per cent method, for several reasons. One reason is that it does limit the matter whereas the alternative method, it could be said by the opponents of the constitution that it gave a blank check to the members of the legislature, although I don't think actually it would, it could so be said. But a lot of thought went into the 10 per cent rule, speaker after speaker got up here and said he favored it, and I think each speaker said so conscientiously and sincerely. I think it represented a fine rule. It has one qualification that was not stressed. The 10 per cent rule is new, unique, and it shows that Alaskans are capable of thinking for themselves, and it is a new approach to the problem, and it is met with the approval of the Committee, it met with the approval of the advisors on the Committee, and I think it is commendable. It is restricted, it is sound, and it shows we are capable in the field of government of devising a good sound approach to a problem that someone else had not thought of, and for that reason I should like to favor the retention of the 10 per cent plan.

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

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

MCNEES: He said the Committee generally favored the 10 per cent plan. I wonder if he is not putting words into the Committee's mouth.

HELLENTHAL: The Committee of course favored the method, the percentage no, but the method that was represented by what I call the 10 per cent plan was conceived by the Committee, as I understand it.

PRESIDENT EGAN: Miss Awes.

AWES: I voted for Mr. Buckalew's amendment, and I still favor that amendment. The legislature handles large sums of money. Eventually it will run into millions of dollars. These legislators'

salaries are only a small percentage of the appropriations that are made, and I don't think there is any place where the legislature is so subject to the will of the people, and for that reason less apt to go overboard in any action they take. I think there will be very few places in the constitution where we limit the amount of money that the legislature can appropriate, and I think this place is probably where it is the least necessary. All the difficulty we had this morning, first we considered 33 1/3 per cent, then 20, 15, and 10. The very action we went through this morning shows the difficulty of deciding on a percentage. Certainly there is no scientific way of doing it. Mr. Hellenthal says the figure of 10 per cent is well considered. I will say that while I did not favor the 33 1/3 per cent that figure probably received even more consideration because it was considered by the Committee for several weeks before this committee proposal even came out. I think that it is both unwise and unnecessary to put any specific limitation in the constitution.

PRESIDENT EGAN: Mr. Gray.

GRAY: As I follow the discussion, the plan seems to me that the 10 per cent is too small for the legislature, and I hold with what Mrs. Hermann says that the expense of this statehood is of more serious consideration than the salaries of the legislature on account of our state economy. We are trying to compare our economy with New York and California. You must remember that every dollar spent has to be raised, and I feel in this discussion that the proponents of Mr. Buckalew's amendment is that 10 per cent which we have figured out to a couple of hundred thousand dollars is not enough, and every time you add another dollar, 15 per cent for instance, that again is more tax money, that again is the legislature's worry, but it is conceivable to me that the legislature feels that the 10 per cent is too small for them.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, perhaps I should say a word or two about my reason for asking for a reconsideration of my vote. It was pointed out that with the amendment not to exceed 10 per cent several things were accomplished. We showed that we did not want too high a salary, it was pointed out that it placed a certain restriction upon the length of the sessions, that is it had a tendency to restrict the length of the sessions. Then immediately, as soon as that was wiped out, other amendments came on to the floor immediately proposing other restrictions, that they could not be increased or decreased. It occurred to me that if we would go back to the 10 per cent and leave it there that it would solve all these other problems about increases and decreases and then perhaps have some bearing on the next section that poses no limitation on the sessions.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, my question is partly answered by the mover of this motion. However, I wish to state my position on this. I voted on the prevailing side of Mr. Buckalew's amendment with good intentions and good faith as all of you have voted. As Mrs. Nordale relates here, we have tried to solve this question practically from all angles. It seems that we are pretty much divided, and the only solution appears to me that can take care of this situation for us is to leave this to the legislative body. I think they are in a better position to know for themselves as to what the needs are as far as the individuals are concerned. In other words, if the cost of living increases, and which very often happens, I have not seen any decrease in recent years, I think they are the best judge because they will be on the ground and they can act accordingly. I therefore feel in the face of all those proposals that we have tried, our best solution is to leave it to the legislative body. I think that is where it belongs.

PRESIDENT EGAN: Mr. Lee.

LEE: I was a member of this Committee, and as Mr. Hellenthal has said, we did a lot of thinking on this proposal. Now he stated there has been a lot of thinking done, but the purpose of all our thinking was defeated in this 10 per cent setup, so I am going to vote to retain Mr. Buckalew's amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I heartily endorse Mrs. Nordale's stand because I look at it from a man in my profession. We have an end product to sell and that is one thing that I hate to stress too much, but it must be kept constantly in front of us, and if we give the legislature a blank check to write their own salaries, that is the finest argument in the world to get people stirred up emotionally to vote against the ratification of the constitution. If we set a ceiling at the present time, then the people have a chance to say, "Well, it won't cost us any more than that." Whereas, if we leave it wide open then it is the easiest argument in the world for those who wish to oppose statehood to say, "How do you know it is not going to be a half-million dollars every session of the legislature?" I believe that since we have an end product to sell, let's not be misled by a red herring. I really do feel that we have an emotional appeal, and we must be careful. I heartily endorse the 10 per cent.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I endorsed the 10 per cent proposition this morning, and I have not changed my mind now. I am not one that feels that the legislature is going to go hog wild in setting its salary. This is a matter of emphasis from my standpoint. I am perfectly willing to accept the matter of the legislature setting its salary if I am sure that is what this body wants, but as a matter of preference, I like what we did this morning much better.

I am only sorry Mr. Buckalew did not make this motion first thing this morning and save us a whole day's time because we went from 10 per cent to 15 per cent and all over the place. I would like to say from my standpoint that I think what Mr. Buckalew is trying to do is defeated by the motion he has made. He voted this morning on all the motions to the effect that the legislature should receive more than 10 per cent. Now it is my belief, contrary to what some of the other folks have said here, it is my belief that if we put no limit on the legislature, they are probably actually going to be getting less salary than if we put a limit. We had considerable discussion this morning about trying to get a good qualified legislator by paying at least an adequate salary, something where he would not lose too much by being a legislator. By leaving this thing strictly to the legislature I am afraid we have done exactly the contrary. I think we only have to look back to the last session of Congress to see what happened there. The pressure that was brought, the criticism they got for trying to raise their own salaries. I recognize that in the action we took this morning the legislature still would set its own salaries, but certainly we have taken part of the burden here by saying they could go up to 10 per cent, which shows that the thinking of this body at least was that that was not unreasonable, clear up the 10 per cent.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Before Mr. Buckalew perhaps closes the argument, I would like to say I go along with Mr. Davis's line of reasoning. I can see the members of the legislature on the hook down there. We have not given them any guide or any sanction. At least we are sanctioning 10 per cent of what the governor would get as a basis, something they could point to to justify their position. If they go down there without such a guide, a few of those boys who are mostly well-heeled, who want to avoid criticism, are going to say, "Let's go easy on this and what's more the state is king of poor, and we have to save some money, so let's fix it at a very nominal amount." From then on out each succeeding legislature is going to hesitate to raise its own salary because they are afraid they are going to be under criticism. We have given them a fairly liberal guide, the sanction of a fairly liberal amount which reflects our thinking, and if you throw it wide open and knock out what we did this morning, I think you are just putting our legislature in a spot without anything to get them off the hook, and you are going to end up just as Mr. Davis indicated, and I hope we can put back this 10 per cent formula.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Point of information. Did not the 10 per cent amendment that we had before Mr. Buckalew's amendment, state that it is a top limit, that it may be considered a top limit? Then, Mr. Ralph Rivers, I see that your argument, that the rich boys might just

say "Let's go easy and do it for a dollar per year", for instance, could not be applied against Mr. Buckalew's amendment because the same argument could be applied against the 10 per cent amendment, so this argument does not apply to Mr. Buckalew's case. There is a limit set there in both and as far as dumping something into the legislature's lap that they have nothing to go by, I don't agree with that. We have the record available of this Convention where the general arguments seem to range from 10 to 15, that is enough for them to go by. I am entirely in favor of Mr. Buckalew's amendment.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, if the Committee had come out originally with the proposal that the salary be left to the legislature to fix, I would have been perfectly willing to have gone along with it, but I think when they came out with this suggestion that it be one-third of the governor's salary, that the damage has been done. That was received unfavorably by the people. I think we have all heard the rumors of discontent on that. If we now go back to the point where we leave it to the legislature, I think the people will still feel that this one-third is probably the goal the legislature is going to set for. They will say, "They have covered this up, they are going to let the legislature take care of it", that it will probably be one-third like the original proposal. So I am in favor of the 10 per cent.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think delegate Hermann wants the floor, and I will decline to her.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I like to consider this matter in terms of dollars and cents, probably because I have had to so many times before these congressional committees. Two hundred and four thousand dollars is what Mr. Gray estimated would be the amount it would cost for legislators' salaries under the 10 per cent rule. At the present time the federal government, at the time I spoke before the congressional committees, the expense to the federal government of conducting the legislation was \$75,000 a year to which the Territory added additional sums which in no way approached \$204,000. Now, let's not forget that this item of \$204,000 is only legislators' salaries. It does not include the other expenses incident to holding a legislative session, the expense of the boiler room, the printing of the journals, and all of those things that go into the cost of a bill of legislative session are not included in that \$204,000, if I understood Mr. Gray right. Now, when we go out to sell this action of ours, this constitution of ours as Mr. Hilscher has suggested several times, and a matter of which I am extremely sensitive to myself, I

think you are going to have dollars and cents to talk about, not 10 per cent, and that when you do have that to talk about you are going to have an awfully hard time explaining why you had to leap -- on the first early days of statehood when there has been no appreciable difference in the economy of the Territory or possibly will be, why you have to leap from the sum of \$75,000 which the federal government was paying, plus the additional cost which the legislature paid, to a sum of this amount which could easily be twice \$204,000 by the time other expenses are added in. Remember the \$75,000 plus the legislative appropriation, I believe it was \$50,000 at the time I spoke in 1950. That is dollars and cents people talk about, and I don't think we have any right to subject the constitution to the danger of nonratification by that fact, that is what they will talk about. They are not going to say 10 per cent nor say that that is a small salary. They are going to talk about actual dollars and cents. I have encountered these opponents of statehood too often in my brief career as a proponent of statehood not to realize what all their arguments are and how they are going to be presented. Quite apart from that is the additional fact that setting the salaries is a legislative function. Yesterday I was accused of being inconsistent because Mr. Sundborg thought I was trying to put some legislation into the constitution. If you take the right of the legislature to set salaries away, you have taken one of its most important functions away from it. I have never been a member of the legislature, I think some of the people in this group think I have. I have been willing, like Barkis, but my constituents have been less willing, so I have never been elected to be a member of the Alaska legislature. I can assure you without any fear of contradiction that you have to keep your legislature's functions intact. They may have made some mistakes in the past, and I have been one of the loudest in calling them to the attention of the public, but nevertheless, it is one of the most important instrumentalities of our republican form of government, and it must not have its rights abrogated and abridged. Let's forget this idea of sticking to a percentage and base this on the governor's salary and being novel and original and all of this, and let's remember that it's money that talks. I supported Mr. Gray's amendment this morning. I did it because it looked at the time like it was the very best we could do, and I was going to go along with what was best, but I think that Mr. Buckalew's amendment I also supported it, and I supported Mr. Fischer's because all of them have elements in them that I think is the most vital thing we have to consider, and that is the matter of cost, not as it appeals to us sitting here, but as it will appeal to the public who pays the bill, and I think that is very vital, and another reason why the legislature should have this function is that they have the revenue picture before them when they are making their appropriations and passing their bills. They have the statistics from the tax commissioner, and the treasurer, and everyone that has anything to do with the handling of the revenue of the Territory of Alaska. We don't. Right now we don't know

what our revenue will be when the salary for the first legislature for the Territory of Alaska will have to be set. I strongly urge everyone who is interested in seeing the constitution ratified to support Mr. Buckalew's amendment. I am only sorry you did not support Mr. Fischer's because I think it provided exactly the same thing and did it in a little better language.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I go along with Mr. Davis's talk that we have wasted a lot of time this morning. You will remember Delegate Coghill and I tried to get this into the legislature this morning but there was no chance of heading off the 10 percenters. They were heavy in there and they had to run their course before we could get a chance to come to it. This is a legislative matter, and I don't know and you don't know if five or ten years from now but what this constitution will still not be in use and the economy of the country will change, and it must be left up to the legislature to pass on that. This is a legislative matter, and I am going to follow along with Delegate Hermann, and I am taking her advice.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: I also voted in regard to this morning's motions. After the words "not to exceed were put in, I voted for the 20 and 15 per cent. I thought the 10 was too low and that it took over a considerable number of the legislature's prerogatives. I feel along with Mrs. Hermann and Mr. Marston that this amendment leaves the power in the hands of the legislators, and I restate here that the majority of the legislators have integrity to a point where I agree with Mr. Davis that they will probably appropriate and spend less if we leave it this way than if we have the 10 per cent maximum established, but I can see as time goes by that they may desire to and may have to change it. I was talking to a legislator in February, in the Washington State Legislature. He told me that there in the populous centers that it now costs approximately \$20,000 to get elected from a municipality in the State of Washington. In the rural areas he said it cost somewhat less. He also stated that legislators from the smaller areas where they were not subjected to the pressures did not have to expend large moneys to be elected, were proving to be the better statesmen and the better legislators in the interest of the people. I can readily see where in a period of time the legislature may desire to raise that money, that compensation, but I can also see that if we have the 10 per cent clause, in order to do so they will very readily apt to force the salary of the governor up to where it would not be what they would want. You have another variable there which must be considered. I feel we should allow it to lie in the hands of the legislature. I would not object to a provision that no legislature within any given session should increase its own compensation provided it is limited to the session or the calendar year in question, if the body feels that

is a necessary safeguard, but I want to strongly emphasize that here again we have a legislative function, and I am sure the people can trust the majority of the legislators to do the right thing in regard to it.

PRESIDENT EGAN: Mr. Barr.

BARR: I agree with quite a few things Mrs. Hermann says. She is an able student of the legislative process and was one of the most able critics of the legislature. I remember as a freshman senator she stated in the press that I did not know the facts of life. Perhaps that is so, but I believe I learned the facts of life since then, perhaps with the aid of Mrs. Hermann. There are some facts I know. I know it to be a fact that under either one of these methods Mr. Buckalew's amendment, or the 10 per cent method, it is still left up to the legislature to set the amount of salary and per diem for each member. The only difference is that under the 10 per cent method we do state a limit and I believe that is desirable from the standpoint of the people who look at this constitution before voting for or against it. Because after reading the Committee report, setting it at one-third of the governor's salary, and after it seeming very high to them, if they take a second look and see that it is left wide open and up to the legislature, I don't believe it will appeal to them anymore, but if we put some limit there, it will.

HILSCHER: May I ask Mrs. Hermann a question through the Chair?

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

HILSCHER: Mrs. Hermann, I heartily endorse your views but may I ask this question. How are you going to answer the question to the people of how much will it cost if you do not establish some type of a ceiling or some sort of an index or pointer as to how much the legislature is going to cost? I can readily see where this would readily be a very fine stumbling block in selling the constitution and statehood.

HERMANN: I would answer the question by saying that I have no light to guide my path save the lamp of experience, and that the cost would be projected on a 60-member legislature, if such we do establish on the basis of the cost of a 40-member legislature, under our present system. I do not mean to say that I think the wages of legislators should be and continue to be \$15 with \$20 per diem per day, but I think the only basis we have for estimating of cost in case the question is brought to our minds by unkind questioners, that we only know what it has cost in the past on a 40-member legislature, and we have no reason to believe that the legislature itself will vary that beyond the limits that it must go in order to provide for a 60-member legislature.

V. FISCHER: I would like to say, as a former 10 percenter who

previously voted against Mr. Buckalew's motion, I have been swayed by Mrs. Hermann's arguments and will vote in favor of the motion now.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that Mrs. Nordale's motion for reconsideration is very well-advised. In view of the fact that the criticism that has been leveled at the original proposal of one-third, I don't believe we would cure that criticism by then leaving it wide open in the proposal because I think it would be inducive of more criticism than one-third of the governor's salary would. Now we are not setting a salary by putting 10 per cent in here. We are setting a limit, and I think that the people will be very glad to know that we have a limit set on the salary that the legislators can vote themselves. Now, Mrs. Hermann, I think quoted a figure of two hundred and some thousand dollars for salaries. Was that it? I don't know, perhaps Mrs. Hermann and I use a different book for arithmetic, but figuring \$2,250, which would be 10 per cent of the governor's salary, if the governor was serving and receiving \$22,500, and if we have a 60-person legislature, I arrive at \$135,000 for salaries.

GRAY: Point of order. I gave the figures to Mrs. Hermann. It is \$135,000 for the salary but it was \$207,000 including the \$20 per day per diem. It is \$135,000 straight salary.

TAYLOR: I am not ashamed to go before the people and say that the salaries under 60-person legislature is only \$135,000 and that would be if the maximum salary was allowed. The legislature might not feel that they want to take the maximum salary. That is a very modest sum I think in proportion to what other legislatures cost, like the legislatures mentioned, a 399-person legislature in New Hampshire which in the whole state is not much larger than a fair sized county in the West, and I think we would not be a bit ashamed of that, and I think we should put this guide and this ceiling upon the salaries for the legislature.

RILEY: I have been curious in listening to the debate as to how the four members present who are members of the Alaska Statehood Committee might divide on this question. I see they are evenly divided, and I think that is rather significant of the thinking of the whole body. I was going to move the previous question, but I note two others wish to speak.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I was happy to learn here a few minutes ago that Mrs. Hermann once said about Mr. Barr something, because I remember very well what Mrs. Hermann once said about me. I have only the kindest feeling for Mrs. Hermann and I know she has always very ably and very conscientiously represented the best interests of

Alaska when she has appeared before Congressional committees to discuss this question of statehood. I have had the privilege of hearing her several times discuss it, and I think we would have all been proud if we had had that same privilege. I am wondering, however, if Mrs. Hermann could in good conscience, after the debate we have heard here today, go before another Congressional committee and say that the cost of a legislature would be 50 per cent greater than it has been under the Territorial system because we have 50 per cent more members. In view of the fact that every person who has spoken here in favor of the Buckalew amendment, with the single exception of Mrs. Hermann, has spoken of it from the standpoint they want more money, that is why they are for the Buckalew amendment. They don't want to be held down to 10 per cent. Mr. McNees is for it, he says, because we defeated the one-third. Mr. Victor Rivers is for it because we defeated the 15 and the 20.

V. RIVERS: I think the 10 is far too low.

SUNDBORG: Others who have spoken on the subject said they were for the Buckalew amendment because they said they want to put more money out to the legislators. If that is their desire, I think they achieve it if they adopt the Buckalew amendment because what it does it takes off every, there is no restriction on the salary in the first place, there is no restriction on whether the members can raise their salary in that very session. There is no restriction on how long the sessions may be. I believe that one thing that the 10 per cent achieves and it is only one thing, is that it tends to limit the number of days in which a legislature is going to be in session in any biennium or any year. If you take the thing off entirely the legislators may say it is perfectly all right for us to get salaries amounting to so much per day, \$50 per day, and so if we meet for six months each year we are entitled to salaries of so much. If we leave the 10 per cent in they could not do that and would not do it and they would show some restraint at least about how many months out of each year they would be meeting, because at the utmost all they could collect in salary would be 10 per cent of the salary of the governor, and so I would vote "no" on the motion that is going to be put to us shortly, which is "Shall we adopt Mr. Buckalew's amendment?"

PRESIDENT EGAN: Miss Awes.

AWES: Mr. Sundborg is the second one who has made the remark that everyone who has been speaking in favor of the Buckalew amendment favors it because it will enable the legislators to receive more than 10 per cent of the governor's salary in pay. Since I spoke in favor of the Buckalew amendment I feel called upon to express my views on that particular point. I did not, I am sure in the remarks I have made, say any such thing. I frankly do not know what the correct percentage would be. I do not believe that is

any way we can determine what the correct percentage is. I am not at all sure the legislature will not end up with a salary less than 10 per cent. I am not saying they should, but they might. I still think it is a matter that should be left to the legislature, and that is the reason why I support the Buckalew amendment.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think my position has been consistent all through this debate. The reason I supported Mr. McCutcheon's committee report is that it set a minimum standard which the salary could not go below, and I agreed with that theory, but I can see now that when they put in the 10 per cent, "not more than 10 per cent" there was no purpose, no logical reason for leaving any figure in there because it did not accomplish anything, and I agree with Mr. Davis. I think that the first state legislature is going to get a lot less than the present Territorial legislature, but I still think it is a logical amendment because we are leaving it up to the legislature, and if they want to pay themselves \$20 a day, which they probably will, it is all right with me, but leaving this other figure in it does not make sense. There is no reason for it in there, and I trust the legislature absolutely. I believe they will starve me out, but I still believe this amendment should be supported.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I just want to add a few words to this proposal since I too favor Mr. Buckalew's amendment. I was not mentioned as a proponent of this motion that is before us now, but however I consider my views based on good grounds also. I too have had a little experience in the legislature. Sometimes it works out to the benefit of the public when you have constituents sitting in a gallery and for that reason I think perhaps it would be a good idea to leave this question to the legislative body.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I am consistently holding to the Buckalew proposition primarily, notwithstanding the misquotation by Mr. Sundborg relative to my remarks. I did not support Mr. Buckalew's amendment because I wanted to spend money or see the Territory of the new state spend money. I support Mr. Buckalew's remarks because I want to see good legislation. As I remarked before, by good legislators, from whatever walk of life they may come from, whether they have financial support that makes them independent or whether they come from the grass roots and the back roads of the country way, I feel that inasmuch as the theory propounded by the Committee in their thinking relative to good salaries, very adequate salaries for the legislators, with the one idea in mind again, that of good government, that that still holds true and can

be applied best considering only the two arguments now before us, the plan of the 10 per cent or Mr. Buckalew's amendment leaving it up to the legislature. I have appreciated Mrs. Hermann's arguments. I feel she has been very close to this situation for as many years as a good many of us, if we were lumped together. I feel she has met most of these arguments at one time or another, and has met them well. I am not at all afraid of going to the people with a constitution in which this matter is properly left up to the legislature and asking their acceptance of it. I think we will get it.

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

H. FISCHER: Roll call.

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

CHIEF CLERK: "Section 7, line 4, strike all material following the first word 'salary' up to and including the word 'governor' on line 5."

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

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

Yeas: 27 - Armstrong, Awes, Buckalew, Cooper, Cross, Doogan, Emberg, V. Fischer, Harris, Hermann, Hurley, Johnson, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nolan, Peratrovich, Riley, V. Rivers, Smith, Stewart, Mr. President.

Nays: 25 - Barr, Boswell, Collins, Davis, H. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Knight, Laws, Metcalf, Nerland, Nordale, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Absent: 3 - Coghill, Londborg, VanderLeest.)

KILCHER: May I hear Mr. Davis's answer? I did not hear.

DAVIS: No.

CHIEF CLERK: 27 yeas, 25 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 7?

If not, are there amendments to Section 8?

CHIEF CLERK: There was an amendment left over from last evening, Mr. McCutcheon's. They were going to do something about changing a word but it was moved and seconded but nothing has been done about it yet, it was Section 6.

PRESIDENT EGAN: If it was held over the Chair did not know that. Mr. McCutcheon.

MCCUTCHEON: We have proceeded beyond Section 6, and I assume that when we come back to Section 6 that we will propose it at that time.

CHIEF CLERK: It was held in the minutes as seconded, and no further action. Is that all right?

PERATROVICH: I think it was held in abeyance, subject to the conference of these committees, and we proceeded with 7. The understanding was we revert back to 6 to take care of that particular question when you were ready.

PRESIDENT EGAN: The Chair knew nothing about it. Mr. Robertson.

ROBERTSON: I would like to make a motion orally. I move that the word "uneven" be inserted before the word "year" in line 12 of Section 8.

PRESIDENT EGAN: Section 8, that the word "uneven" be inserted before the word "year" on line 12 of Section 8. What is your pleasure, Mr. Robertson?

ROBERTSON: I ask unanimous consent.

DOOGAN: I object.

METCALF: I second the motion.

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

ROBERTSON: Mr. President, my thought is that holding a session of the legislature every year is too frequent, particularly when we have a provision that if an emergency occurs that special sessions can be called. I believe in stability of the law and I think that annual sessions of the legislature necessarily creates a considerable turmoil. It makes the people, even the lawyers, uncertain as to what the laws are, and I believe in our Territory that if we have a regular session of the legislature every other year we are in ample position to furnish all adequate and necessary legislation for the proper government of the state and furthermore, there is another point that we know the proneness of

each legislature, probably from necessity, at least the legislators believe they are necessary, to increase taxes and I believe the taxpayer has a right for at least a two years' rest from an increase of taxes, and I submit this thorny problem should be once every other year instead of every year.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I might say something in that regard. I am against the amendment for this reason. Though a city council is a small portion of the government of the Territory, we have found here in Fairbanks and I think every major city of any importance of the Territory finds the same thing, that they reach a point where instead of having a council meeting every two weeks they get to the point where they have to have a council meeting every week because of the growing size of the city and growing necessity of taking care of things as they come up, and I feel that the Territory is growing in that same regard, and as we have seen in the past, that the legislature is slugged with a tremendous amount of work all through the session and particularly at the end of the session that they end up where they can't accomplish the work in the manner that we would like to have it accomplished because of the press of work. It is necessary that we have the legislature meet every year and then those that are worried about the length of the session, I think will find that the session of the legislature probably won't exceed between 30 and 60 days every year because they are taking up the matters as they come before them. When you speak of special sessions, you have seen in the past the reluctance of some governors to call for a special session namely because it is economy for the people of the Territory. I have found, and I think that the Territory of Alaska will find that as they go on that special sessions will become a necessity more and more, and you get into more special sessions than you actually want, and if you have a Territorial legislature that meets every year to take up the business in an orderly manner, then you are not plaguing the people that are serving on the legislature to a call of a special session when it may be inconvenient for them to do so.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I know the last few sessions of the legislature it has been found to be physically impossible to do the work that should be done by the legislature in the 60-day period, and we have had many talks down there, publicly and privately among the legislators that there should be a 60-day session in the one year, the odd year, and a 30-day session in the next year. Since 1945 I don't believe that there has ever been a legislature that adjourned and that all of the bills, and many of them for which were very fine bills, had received consideration from the house and from the senate, that many bills died because it was physically impossible to consider them and either pass them or defeat

them. Now that is not just an isolated instance, but it is in every legislature. We found the same thing in 1955. I believe we went 12 days over there. We not only considered the Employment Security Commission bill, but also others. We did work steadily with night sessions during the entire session, and I think we could very well, with the size of the Territory and its increasing problems, could afford to have a 60-day session one year and a 30-day session the following year. I think then possibly we could keep up with the business.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I have lived in Juneau during every session of the Territorial legislature and I think public necessity, my recollection may be wrong in one instance, but I think public necessity has only called during all those years since 1913 for two special sessions. It might have been three special sessions, but the fact is that I challenge anyone to point out whereby the Territory has suffered harm by the fact there have not been more special sessions called. Now this article provides that the legislature itself may call a special session, so it seems to me that if it is true that at the end of a regular session the majority, or whatever the required number is in this article, of the legislators feel that they have more legislation that is important to the welfare of the Territory to enact, they themselves could call a special session before they adjourn, but I can't see any reason of putting upon the Territory the burden of having a regular session every year, and I also say what laws have been passed, or have not been passed from which the Territory is suffering. I have heard of none. I don't think anyone else has, and I submit it stands to reason. We have talked a lot today about trying to get good men and women to run for the legislature, not that they have not been in the past, maybe to increase their caliber. I submit it is a burden on an individual to accept a legislative position and if he has to go there once every year it is going to be just that much more of a burden, and you do destroy this salary. You just cut his salary in two and I believe it is only common sense to have our laws stable enough so that we know for at least two years the law is going to be in effect, unless some public emergency calls for its being repealed or amended and not having it subject to being in effect knowingly, so we all know it. I submit we ought to amend the article in the course of my proposed amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I believe that if a law passed by the legislature is a good law there is no question but what it will stay on the books more than one year. I also believe it has been very well established that special sessions have become regarded as emergency sessions, and they have only been called where there has been an emergency. So I feel very strongly that the annual session is desirable in order to get away as far as possible from

the last minute rush which has, I am sure, though I cannot cite specific instances, resulted in the passage of poor laws and has resulted in desirable laws not being passed.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to point out three things very briefly. In the first place the executive article has developed a very strong executive in which I am in favor. However, we must in conjunction with that also have a strong legislature, and I do not feel that can be accomplished in biennial sessions. The trend of the other states in recent years is back toward annual sessions. Originally most of your legislatures, in fact all of your original legislatures in the states, were set up on the basis of annual session. When your legislatures reached a new low in the thinking of the people in the mid-nineteenth century, we found the trend became away from the annual sessions and toward the biennial sessions. In the twentieth century we find the swing back toward the annual sessions, and I feel we would be making a big mistake in a state as large as this one is, to have a strong executive and not have annual sessions of our legislature. I am firmly in favor of a strong executive, but I also want a strong legislature. Furthermore, you are going to have the best reflected thinking of your populace of Alaska as a whole in your legislature rather than in your executive. You are going to have that because your legislator constantly goes back among his constituents, and he in turn will carry that thinking into the capital city, wherever it may be, and it will be reflected in turn in your executive thinking as it should be.

METCALF: Mr. Chairman, some of the folks here have said an annual session of the legislature is going to solve the last-minute-rush problem. I wonder if they are going to solve the last-minute-rush problem in this Convention.

HERMANN: A good question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. If there is no objection the Convention will stand at recess until 3:50 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has received a communication from a professor at the University in which he announced that Major William F. Dean will make a speech in the gymnasium at 1:00 o'clock on Thursday. Professor Richardson, I believe, invited the delegates to be present if they

so chose to hear General Dean's speech, and I was wondering if it might be in order, if the delegates did not wish to recess for that particular length of time, to send General Dean a communication requesting he make a few brief remarks here at the Convention following his speech at the University, or just what you would like to do?

JOHNSON: I so move.

MARSTON: I second the motion.

PRESIDENT EGAN; It has been moved and seconded and unanimous consent is asked that the President request Major General Dean to present a few brief remarks to us on Thursday afternoon if he would so choose to do so. Is there objection? Hearing no objection, it will be accomplished. Are there amendments pending at this time? Mr. Victor Rivers.

V. RIVERS: I have an amendment to Section 8, Mr. President.

PRESIDENT EGAN: Amendment to Section 8. Would the Sergeant at Arms please bring the amendment forward? The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 14, Section 8, add the following at the end of this section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature to such time as he shall think proper but not beyond the day set for the opening of the next regular session.'"

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

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

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

NORDALE: I second the motion.

PRESIDENT EGAN: Is there discussion? Mr. Hurley.

HURLEY: I will ask unanimous consent so that the Style and Drafting Committee can have a good time.

PRESIDENT EGAN: Is there objection?

BUCKALEW: I object.

GRAY: I object for a minute. I wonder if just for the moment, just what was the intent of the Committee to go as far as they went and no further, did you contemplate this?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, in perusing the bulk of the constitutions of all the states, as a matter of fact, I think I read them all and some others besides, I cannot recall if all of them had the provision similar to this, but at least a substantial preponderance had the provision just exactly as it is written here. "One house shall not adjourn for more than three days without the consent of the other." The point of Mr. Rivers's amendment, I think in theory, is well taken. I am not just sure how it would apply in the event the legislature sought to reinstitute a special session by polling their own membership as is provided in another subsequent section. I think Mr. Rivers's amendment seeks to eliminate the possibility of a complete stalemate and because there is not a limitation necessarily in the legislature it will permit the governor to set up a limitation unless they arrive at some conclusion rather than being a total stalemate, and in so terminating the legislature will provide them a cooling-off period, so to speak, so they may go home and consult their constituents, and I assume it would not prohibit the assembly again of the legislature under its own authority.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That is the intent, Mr. President. This is not, I don't think, a controversial amendment. It does, however, appear in practically all the state constitutions where they do not have time limits on their sessions. It was my thought in presenting it that we should have such a measure to overcome a deadlock in the case such a thing occurred, and it is very possible that such a thing could occur, that after a reasonable cooling-off period the members could then gather and resolve their problems. I just want to refer to the Hawaiian reference manual on it and give you a few figures. A number of states grant the governor power to adjourn the legislature, usually when there is a dispute between the houses as to the time of adjournment. Under these circumstances the governors of 18 states may adjourn the legislature but not beyond the time of the next regular session. The constitutions of five other states grant similar power, but the maximum length of the recess is expressed in terms of days or months. I think that covers all there is on that point. The subject is that if there is a deadlock rather without a time limit set on its session, that the governor in this particular manner can, on the request of one house, adjourn the legislature. It was expressed to me before I presented the amendment, there should be a limit of time in which you should notify the other house, such as two or three days. I think this is broad enough to allow the governor to set up such a procedure and grant the other house two-or three-days'notice that he had been asked to take such action and would do so in the three-day period.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I disagree that this is a good thing because it seems to me to be unwarranted encroachment of the executive department upon the legislative. We have three distinct branches and they should be kept as separate and distinct as possible. Now if we are going to take away from the legislature the right to fix its own adjournment date by giving it to the governor, I think we are destroying one of their essential powers and on any matters that involve organization and the conduct of the business of the legislature, it seems to me that should be their prerogative. I am certainly against the amendment.

SUNDBORG: May I hear it read again?

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

CHIEF CLERK: "Page 3, Section 8, line 14, add the following at the end of this section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature to such time as he shall think proper but not beyond the day set for the opening of the next regular session.'"

GRAY: I withdraw my objection.

PRESIDENT EGAN: Mr. Riley.

RILEY: I would like to direct a question to Mr. McCutcheon. Perhaps I did not follow him clearly. Did you say that in every case where there was no expiration time set for a session that a provision similar to this existed?

MCCUTCHEON: No, I did not intend to infer that.

RILEY: I have rather pronounced reservations on this myself in line with Mr. Johnson's remarks. If, as we have always felt, that they are coordinated branches, I think rather recent memory would show us that in our own situation, had we no expiration date we would have been at an impasse, and I think perhaps further language could be considered here in line with the next section, that any adjournment taken by such a means be taken subject to the legislature's right to reconvene itself. That possibly would satisfy my objection, but I will leave it up to Mr. Rivers to call for a recess should he wish to consider other language.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am a little confused here as to when this comes about. It seems to me from the amendment this only comes about when the two houses of legislature cannot agree with each other that they should adjourn. If that is true, I don't feel that the executive is usurping the power of the legislature

to adjourn. If they can't make up their own minds to adjourn, somebody is going to have to make up their minds for them.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: This is a rather lengthy amendment. I would like to either have it reread or ask Mr. Rivers a question. Mr. Rivers, would the result of your amendment be that the governor would have the authority to set the time of the adjournment, is that included in there?

V. RIVERS: I will read to you the amendment. "If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature to such time as he shall think proper but not beyond the day set for the opening of the next regular session."

KILCHER: That means he sets a date.

V. RIVERS: He shall adjourn the legislature to the time he shall think proper, etc.

KILCHER: Is there an amendment forthcoming that will mitigate somehow that power of adjournment to the time he sees fit? I think I am against the amendment. I see the impasse that the house could be in, but I think the governor has altogether too much authority under this amendment. Unless an amendment to this amendment comes forth, I will vote against it.

PRESIDENT EGAN: Mr. Barr.

BARR: I agree with Mr. Johnson's principles that the executive should not infringe upon the powers of the legislative, but this is a special situation where the members of the legislative branch cannot agree. One house would want to adjourn, the other house would not. There is only one way that situation could be resolved, and that is by a referee, and who is better fitted to be a referee than the highest official elected by the people?

UNIDENTIFIED DELEGATE: Question.

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

V. RIVERS: I would just like to say a few more words and that is this, that I think if this amendment in substantially this general form is not adopted, it will probably be one of the first amendments adopted at the next constitutional revision convention.

BUCKALEW: Could I ask Mr. Rivers one question before I vote?

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

BUCKALEW: As I understand it, if we adopt this amendment that would preclude the both houses from having a poll and calling themselves back into session prior to the date set by the governor?

V. RIVERS: No, that would not be my interpretation. I am not sure.

PRESIDENT EGAN: If the Chair called for a two-minute recess it might be this could be resolved. If there is no objection the Convention will stand at recess.

RECESS

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

V. RIVERS: Mr. President, after some discussion I agree, and those I discussed it with feel that by putting a period after the word "legislature", or a comma after the word "legislature", striking the balance of the typewritten matter and adding the words, "subject to the provisions of Section 9 hereof," would allow the self-starter clause to operate. In Section 9 is a self-starter clause whereby two-thirds poll of the legislative members they may reconvene, so I will ask to withdraw my original proposal for an amendment and submit this amendment as read.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Hearing no objection it is so ordered and the amendment has been withdrawn. The Chief Clerk will please read the proposed amendment as it is before us at this time.

CHIEF CLERK: "Page 3, Section 8, line 14, add the following at the end of this section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature, subject to the provisions of Section 9 hereof.'"

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

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

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to ask Mr. Rivers a question. As I see Section 8, it refers to regular sessions of the legislature while Section 9 refers to special sessions, and special sessions are limited in the subjects which can come before that session. Do you feel you would accomplish the purpose which would be desirable under those circumstances?

MCCUTCHEON: I would like to point out to Mr. Smith, however, that when the legislature is convened because of its own action, it is not limited to subject matter. Only when the governor calls a special session is the special session limited to such agenda as the governor may submit.

SMITH: Thank you, Mr. McCutcheon.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to ask the question of anyone that can answer it. If this material does not go in the constitution could the legislature then prescribe for such a situation?

V. RIVERS: I doubt very much if they could. In the section previous to that, Section 8, the wording previous to that, we have the words, "Neither house may adjourn or recess for a period longer than three days without concurrence of the other." It automatically prohibits them from both adjourning, and if they are deadlocked, in the matter of adjournment, then in this manner the governor could adjourn them and they could reconvene on a two-thirds vote of their own group, and I believe that would handle it.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I don't think that Mr. Rivers' answer quite filled Mr. Hurley's question there. I still wonder whether if this article fails of adoption, whether the legislature could not choose its own system of arbitration. Is that your idea, Mr. Rivers? I wonder technically if they could not choose their own umpire so to speak, make their own rules? I think it would be just house rules Mr. Riley, what do you think of that?

RILEY: Like so many I profess no expert qualifications in that respect.

MCCUTCHEON: Mr. President, assuming that Section 11, which we have not arrived at yet, stands in its form, I think that that eventuality which Mr. Rivers has provided for would be taken care of by their own action, but the section may not stand, and in such a case it may be necessary to add Mr. Rivers's amendment.

HURLEY: Mr. President, the question was asked with this thought in mind and as I say, these things leave me a little cold. We will assume this impasse is going to come about by the fact that one house is considering something and the other house is not interested in it and it wants to adjourn. It appears to me that the governor then could be in favor of one or the other of them and act in such a way as to prefer one house or the other and in essence then prefer one particular subject matter that they were discussing, and the possibility occurs to me it may be a dangerous

thing, and so I am a little frightened of it. If it could be taken care of by rules I would prefer that it would be done that way.

MCCUTCHEON: I would like to point out one further thing. In this instance I am speaking neither for nor against the amendment. You might consider in looking through Section 9 that in the event the legislature took an immediate poll and voted by two-thirds to stay in session, it would in effect override the governor's so-called veto of the legislature, so it's a matter of the governor siding with one house, if there is two-thirds of the members that prefer not to accept the governor in the other house or the majority of the house, if they can muster the two-thirds they can, in effect, override the governor's veto so they could stay in session.

RILEY: Mr. President, another thought occurs to me which may not have been in our minds during the last recess, and Mr. McCutcheon has touched on it. If this language is acceptable, further attention will probably be required on Section 9 to obviate a series of adjournments. I see we have a limitation in the last sentence in Section 9: "No special session shall be of longer duration than 30 days." We will assume that this proposition is set in action whereby one house wishes to adjourn, that house and the governor get together and bring about an adjournment, immediately two-thirds of the total number of legislators call for reconvening the legislature. Again the one house decides to adjourn on the first day they are back or within a short time thereafter, I don't think we are fully covered yet under the language which is before us.

HELLENTHAL: Unless another recess is proposed, I cannot quite agree with Mr. Riley. He says that two-thirds of the legislators can override the governor. It does not say that, it says through a poll directed by the Legislative Council. Frankly, I don't know what that means. Does that mean that it takes a majority vote of the Legislative Council before the machinery can be set in process? Apparently Mr. Riley thinks not. He thinks that a petition signed by two-thirds of the legislators might accomplish the result, so I certainly would like attention focused, during the recess, to what this language, "poll directed by the Legislative Council" means.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I move that we postpone this amendment to a set time, the time being on the next working over of the section after we have a chance to go over Section 11. In other words, to take this matter up again after Section 11 has been treated with and if it should be accepted as it stands, which I hope, then it appears it might be entirely a matter up to house rules and after Section 11 has been dealt with in better shape, it might save us

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time and recesses. We have other recesses in which this question could then be handled.

PRESIDENT EGAN: You are asking that this particular proposed amendment be set over to a set time?

KILCHER: Set time being after Section 11 has been dealt with.

KNIGHT: I second it.

V. RIVERS: I have no objection.

PRESIDENT EGAN: If there is no objection, then the proposed amendment is set over until we have completed our action on Section 11. Mr. Sundborg.

SUNDBORG: I have an amendment.

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

CHIEF CLERK: "Section 8, line 12, after the word 'year' insert 'for a session of not to exceed 60 days'."

SUNDBORG: I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second to the motion?

HERMANN: I second the motion.

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

SUNDBORG: This I think will make unnecessary the language proposed by Mr. Rivers because it would bring the legislature to an end if it reaches an impasse when it gets to the 60th day. I believe that the provision that they may meet up to 60 days each year is generous. They have been meeting only 60 days every other year under our Territorial experience, and if there is necessity for additional time of meeting it could be ordered by either the governor or by two-thirds of the legislators.

MCNEES: Where does the insertion go in please?

SUNDBORG: After the word "year". Right after the word "year", between "year" and period.

PRESIDENT EGAN: After the word "year" on line 12. Mr. Kilcher.

KILCHER: Mr. President, I think that the question, shall we have a limited or unlimited legislature, should not come up here merely in the light of an amendment. It is a basic question and I think if you decide on it now we won't have given it enough

thought. Mr. Sundborg, I think that the question itself in its own place and time is a good one. However, I don't think it will solve this particular problem we are speaking about, because for instance you have a legislature that after 30 days reaches this impasse. Would you then have them be in an impasse for another 30 days until they have to go home anyway?

PRESIDENT EGAN: The Chair would like to state we will have to handle these problems somehow, and if we keep setting them all aside we never will. Mr. Sundborg.

SUNDBORG: I do submit that this is the time and place to decide this. It belongs in this section if we are going to limit the length of the sessions of the legislature, it belongs right where I put it. I offered it not just to solve the matter which Mr. Victor Rivers brought up, I had it written out here on my desk before he submitted his amendment. I believe it is good anyway, but in addition it would make unnecessary an amendment such as Mr. Rivers has proposed.

BUCKALEW: I would like to hear from somebody on the Committee. This is an important amendment and I haven't heard anyone from the Committee.

MCCUTCHEON: The preponderance of Committee thinking on this subject was that we should have unlimited sessions. The whole theory of this legislative article has depended on an annual salary, unlimited sessions, special sessions that could be called by the governor if he has a program that is necessary to be instituted, or to call a special session of or in the event of public necessity in the feeling of the legislature and the feeling of the public for the legislature to bring itself to convening. By placing this 60-day limitation in here we obviate the theory of this particular legislative article, and I mean virtually the bulk of the article, because the thinking has been along the lines of the general tendencies in legislatures of the states to get away from limited session by more and more leaning into either split sessions or annual sessions. At least six of the states now have gone over to the point again, as Mr. McNees said some time back, of having annual sessions. Some of the states have developed annual sessions and have also included special sessions, almost as a matter of course. We think, at least most of us on the Committee, felt that in line with the proposition of being able to institute the legislature when necessary, and we felt that because of the necessity of perhaps taking care of the situation as our new state grows, the problems of our state multiply by increases in population, the advent of industry and whatever it may be, that it might be necessary for the next 15 or 20 years for us to have sometimes in a year perhaps as much as two sessions or calling a regular session and a short session on the following year to pick up the tag ends of what may have been left off at one session. The theory of this particular article is that on an annual basis the legislators will

be, let us say, self-stopping. The necessity of their own private affairs will tend to make them transact their business in an expeditious manner as possible and so bring the termination of the legislature at the convenient point when they need to go home or when the bulk of the affairs of the state have been taken care of, yet still not precluding the fact they still must stop on a given date and leave undone much important legislation. So if this matter of a 60-day limitation is interposed at this particular point, it is my feeling that the intent of this legislative article is going to have to be very substantially revised.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I don't quite follow the argument that if this amendment is adopted it would necessitate a complete revision of the legislative article. It seems to me that the intent is not altered at all. The only question is whether or not we can afford to spend money for unlimited sessions or whether we ought to try to economize as some have suggested and limit the sessions to 60 days each year. That should be plenty of time if the legislature gets down to business and does its work, and the arguments which have been put forth on the basis that if you have an unlimited session they are going to get their work down a lot quicker. If that argument is good, on limited sessions, it seems to me it should be good on 60-day annual sessions. I have not had as much experience in the legislature as some, but I have attended one or two regular sessions and one special session, and it occurs to me that with the regular session every year, 60 days in length, and with the provision as set forth in Section 9, where the governor or legislature itself is given the right to call any emergency special session, that we have spent plenty of money to make our laws. This would be a very good way of economizing on the cost of the legislature over all. I am for the amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I can agree with Mr. Johnson that economy is desirable, but I do not believe we should economize at the expense of good legislation, and I think it is important that the legislature have time to carry out the purpose of creating good legislation, and I think too that we have seen what limitation of time can do, so I am opposed to the amendment.

ARMSTRONG: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: You may, Mr. Armstrong.

ARMSTRONG: In the Hawaii Constitution they seem to classify between general sessions and between budget and special sessions; general sessions for 30 days and budget sessions and special sessions for 30 days, and that the governor may extend any session for not more than 30 days. Have you considered that type of

provision in making out your amendment for this article?

SUNDBORG: I did not, Mr. Armstrong, but I would say that it would be identical with ours, as it would be if my amendment is adopted, regular sessions of 60 days, special sessions of 30 days. The thing that would be different would be that we have no provision for the governor to extend the session, but we do have a provision allowing the governor to call a special session, which is the same thing.

ARMSTRONG: But you do not have anything in there about a budget session, and it seems to me that is an appropriate inclusion.

SUNDBORG: That was not the intention of my amendment. I do not know anything about the subject of a budget session.

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

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

Yeas: 20 - Barr, Boswell, Cross, Harris, Johnson, Laws, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, Riley, Robertson, Rosswog, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 32 - Armstrong, Awes, Buckalew, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor, White.

Absent: 3 - Coghill, Londborg, VanderLeest.)

CHIEF CLERK: 20 yeas, 32 nays and 3 absent.

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

R. RIVERS: Mr. President, I have an amendment on the Clerk's desk to Section 8.

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

CHIEF CLERK: "Section 8, page 3, line 13, change the words 'three days' to 'one day'."

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

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

KNIGHT: I second the motion.

TAYLOR: I object.

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

R. RIVERS: I bring this up now so the matter will not be unconsidered. To say that either house may adjourn for three days without the consent of the other house is kind of crossing up the purposes of our legislature. Certainly we have gotten away from a unicameral legislature. We have a bicameral, but I think if the members of one house are there and on duty there is no reason why the other house with the constant exchange of business, be authorized here or have it left open to take a recess for three full days. They could take turns taking recesses. I can see a house knocking off for one day without the consent of the other house, but I think the three-day period is too long for this particular purpose.

MCNEES: I would like to ask Mr. Rivers a question if I may.

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

MCNEES: Couldn't you possibly imagine a situation whereby one house might like to send a delegation of their members out into the greater area for a series of hearings that might run into four or five days on a particular question, and the other house might want to sit in session during that time?

R. RIVERS: They haven't recessed when they are in the committee of the whole. When in committee of the whole they are still conducting business of the legislature. If they want to hold hearings they can go right ahead as a committee of the whole and hold them.

MCNEES: I did not mean necessarily hold them at the seat of government, but hold them out in a greater area. They might disperse into two or three or four committees in various ways, a proportion of the house still sitting at the capital city.

R. RIVERS: Where there is a legislature in session I can't see them taking out into the country and holding hearings. They would hold hearings between sessions as in a committee of the whole, but I have no strong feeling on the matter. I just wanted the body to consider it.

PRESIDENT EGAN: Mrs. Sweeney, the Chair was wondering whether or

not maybe the Committee thought that one year the house would go to the Pioneers' Home and the next year the senate would go. Mrs. Sweeney.

SWEENEY: The house and the senate, each time they meet, send a delegation for an inspection of the Home and the business continues. They do not pass bills but they do a lot of second reading for instance and introduction of bills and conduct all kinds of business, and that is for quite a number of days.

BARR: Mr. Rivers says that he just gave us this for our consideration. It has not taken me long to consider it. I think it is a very unnecessary amendment. I can think of several situations where one house might want to recess, such as Mrs. Sweeney mentions, also perhaps they have finished practically all of their business and a big long 80-page banking bill has passed one house but is being considered in the other house. Why should one house sit there for three days while the other house is working on that 80-page bill? They might as well recess, but it is up to the members of the legislature. They are not going to recess just for fun, not if there is any work to do.

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

ROBERTSON: I would like to ask Mr. McCutcheon, the language in there, "for a period longer than three days" sort of bothers me. I think Mr. Gray asked him some question on the point, but what is to prevent either house from doing that recurrently? Having a recess for three days without the concurrence of the other house? Then meeting again and then immediately taking another recess for another three days?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It is my impression that this same terminology is in the Organic Act or else it is in the joint rules of the house and senate. I can't remember which, and I can't find it in the Organic Act right this minute, but I think the terminology there is nearly identical to it. It is apparently standard terminology or relatively standard terminology in the bulk of the constitutions, and for reason of precedents, I suppose, we accepted that.

BARR: I can answer Mr. Robertson's question as to what would prevent it. The newspapers would prevent it.

PRESIDENT EGAN: Are there other amendments to Section 8? Mr. McCutcheon.

SUNDBORG: I do not have an amendment, but I have a question. I wondered, Mr. McCutcheon, if I may ask a question, we are providing here for an annual salary. Was it your thought that that salary would be paid in equal installments? And the reason I ask that is that a man might come down to the capital city of Juneau and work for two months very hard in session and earn a total of \$400, presuming that our annual salary might be around \$2,400, and there would be no other duties, particularly of the legislators, for the balance of the 10 months, and then under Section 5 where any member would have to resign in order to run for any elective position or to be appointed to any position, under the state, that would be all the compensation he would get. Now just for the purpose of judging what the intent of the constitution is, would the annual salary be paid in equal monthly installments or could they pay more while the legislature is in session?

MCCUTCHEON: Mr. President, the discussion I believe in the Committee was relatively informal on that matter, and it was concluded that the legislators would be paid on a monthly basis. It appears, at least our consultant advised us, that most of the states or a good portion of the states that have an annual salary operation do pay on a monthly basis. Whether that is an actual fact or not I do not know. We have not checked it out with any of the books or other constitutions on that matter. We assumed that the payment would be on a monthly basis, receiving such other additional compensation as they may be entitled to at the time they were in actual session.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to ask Mr. McCutcheon a question. Is it your understanding that once we have created an office of a legislator, once a man has been elected, he fills the office, I would think he would be entitled to the full amount then. I mean, if the legislators wanted to pay themselves that way, but once he is elected to the office, is he entitled to the annual salary?

MCCUTCHEON: That is a question I don't think we had considered in that fashion. We felt that so long as a man was actually

serving in the capacity of the legislature that from month to month he should be paid, but for some reason he ceased serving in that, the Territory shouldn't seek to get back the unserved portion of his remuneration. Did I get your point correctly?

BUCKALEW: You just intended to leave it up to the legislature?

MCCUTCHEON: I assumed the legislature would set up some kind of fiscal arrangement for paying the legislators.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: That would be correct because Section 7 now says the

legislature will receive an annual salary. That leaves it entirely up to the legislature to figure out the details, and we don't have to spell them into this constitution.

V. RIVERS: I have another question, and that is in regard to the fourth Monday in January of each year. It seems to me that in the first few sessions of the first state legislature, that the second Monday would gain 15 days for you and I can see that in the first few sessions, the first few years of the new state, that we are going to have considerably longer sessions than you probably will have later. I wondered if the Committee had considered the use of the second Monday in January in order not to run so far into the spring months?

MCCUTCHEON: There had been some discussion about it. I think our discussion revolved around the time the governor would take office. There was some coordination of thought in that respect. I think the governor takes office prior to the time the legislature convenes, to permit him to get his fingers into the matter of government prior to the time the legislature actually sits. Now the Committee, and I think I can speak for all of the Committee on this matter, the Committee has no particular date they would like to see it set, except they did not want to get it too far along. It seems to me the fourth Monday of January is about the time the legislature convenes currently. If it were advanced, I am sure that I speak for the committee again, we would have no objection if it were advanced to an earlier date.

V. RIVERS: As I recall, all the discussions in the Executive Committee, we more or less keyed the seating of the time of the governor around the second Monday in January and that is why I asked the question. We keyed it around the second Monday in January, the legislature meeting then, and I am going to ask the unanimous consent to change the word "fourth" in line 11 to "second", that will save two weeks in the matter of the early spring season and we do have a seasonal operation.

NOLAN: I will object.

V. RIVERS: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: If we are going to have a 60-day session, I know they have changed the income tax law, but anyone in business, I think it is a pretty tough proposition to get there on the second Monday of January. That is kind of tough, a little too tough on anyone that is going to try to get their business affairs in shape, don't you think?

PRESIDENT EGAN: At times that could fall on the seventh or

eighth of January. Mr. Victor Rivers.

V. RIVERS: The least it would fall on ever would be the eighth day in January.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, in connection with this, something that had occurred to me previously, was that we provided the legislature may change the date of the general elections. Could Mr. Rivers's objection and Mr. Nolan's objections to each other, etc., be met by inserting, "unless otherwise provided by law" or "unless changed by law", as we have done for the date of the general election?

PRESIDENT EGAN: Mr. Gray.

GRAY: I wish to agree entirely with Senator Nolan. Even if you would add one more week, the third Monday in January, at the first of the year every day counts, and the third Monday is much, much preferable to the second Monday.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think we probably should give more consideration to Mr. Fischer's thoughts on this matter. If the legislature can change the election date, I think the legislature should be able to change the date which they convene. You might run into a situation where you have to amend the constitution to conform with an election.

NOLAN: I think Section 3 has been called to my attention which says the terms of office shall begin on the fourth Monday of the following January. You would have to change that also.

PRESIDENT EGAN: If the Chair may, the Chair recalls that there have been several, not one but several amendments to the Organic Act that related to this particular question, and it might not be a bad idea to leave it up to the legislature. Mrs. Hermann.

HERMANN: Three times within my memory, and I have watched the legislatures convene for about 30 years now, but three times within my memory the date of convening has been changed. It used to convene in March and it was set to convene I believe the second Monday of January, and that proved to be undesirable and another change was made to make it the fourth Monday in January. I think myself that there should be a provision in there permitting the legislature to change the date and not just tying us down flatly to the date of the fourth Monday in January, no matter what happens because things could happen in regard to the calling of the national Congress that might affect our time a little too. I think the suggestion made by Mr. Fischer is good,

and I hope he will reduce it to an amendment and submit it.

V. RIVERS: I will ask for a two-minute recess, so Mr. Fischer can work on that.

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: I will ask unanimous consent to withdraw my previous motion and to submit in lieu thereof this amendment.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that his previous amendment be withdrawn. Is there objection? Hearing no objection it is so ordered. The Chief Clerk may read the proposed amendment as offered by Mr. Victor Rivers.

CHIEF CLERK: "After the word 'January' on page 1, line 18, and on page 3, line 12, after the words 'each year' insert the words 'unless otherwise provided by law'."

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

V. RIVERS: I will move and ask unanimous consent for the adoption of the amendment as it has been proposed.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the amendment.

SWEENEY: I object.

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

CHIEF CLERK: "After the word 'January' on page 1, line 18, and on page 3, line 12, after the words 'each year' insert the words 'unless otherwise provided by law'."

PRESIDENT EGAN: Is there still objection to the unanimous consent request?

SWEENEY: I will withdraw my objection.

PRESIDENT EGAN: Hearing no objection, the proposed amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: Mr. President, I should have spoken before you said it was adopted. However, I would like for the record to know that it was the opinion of the Committee to set the date of the

beginning of the term of office and the date of the convening of the legislative session on exactly the same date so that there could be no doubt in anyone's minds that the legislators elected at the last election, their term of office shall begin at the stipulated time when the new session of the legislature convenes. That was our idea in setting up the beginning of the term of office on the fourth day of January in Section 3 and establishing the beginning of the legislature on the fourth Monday of January in the subsequent Section 8, so there would be no conflict at all.

HERMANN: I just wonder what that might be to the travel authorizations prior to the fourth Monday. If he is not a member of the legislature until the fourth Monday how are you going to get him to the legislature on the fourth Monday?

MCCUTCHEON: Actually, Mrs. Hermann, we are not members of the legislature now until we actually take the oath of office at the legislature.

V. RIVERS: The fact of certification of election is adequate to cover that and has been in the past.

R. RIVERS: Mr. President, I remember one occasion when there was a great press of business and the attempt was made to call an extraordinary session prior to the fourth Monday in January, and it was called and the boys worked for 17 days and later on the circuit court held it was not valid but they did so much work in the 17 days that they successfully completed all their labors during the following 60 days. The thought was they could be convened because they had been certified to be elected even though a previous legislature had been elected and was theoretically still in office. It was a bit of a mean question so I think we should be fairly clear on the subject matter that Mrs. Hermann raises or we are going to have another law suit. I don't know just how to get at it, I would have to study it. However, the travel time, I think they get paid for travel time on their full per diem by specific authorization and that can be for two days travel before you take your oath, but whether you could actually start drawing a salary on January 1, before you have been sworn in, that is something else again. I know it can be done if this constitution says so.

PRESIDENT EGAN: Mr. Gray.

GRAY: I think that we resolved that the legislature will take care of their own salaries and if they get into salary difficulty here they will be authorized to take care of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: It is my impression that once we get to be a state we won't have the same problems we had under the Organic Act. I don't

think Mrs. Hermann's question will raise much of a problem.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, with your indulgence I will revert to Section 6 in as much as we have one amendment pending from last night which was held in abeyance. If you will permit we would like to take that up at this time.

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

MCCUTCHEON: Mr. President, prior to that time I would like to ask unanimous consent that I withdraw the original amendment that was offered last evening and supply in lieu thereof a new amendment which I hereby offer at this time.

PRESIDENT EGAN: Is there objection to Mr. McCutcheon's unanimous consent request? Hearing no objection the original amendment is ordered withdrawn. Would the Chief Clerk please read the proposed amendment as offered by Mr. McCutcheon at this time.

CHIEF CLERK: "Page 2, Section 6, line 25, following the word 'arrest' insert 'and not subject to civil process'."

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

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

R. RIVERS: Mr. President, I object just for a point of clarification. Those words would supplant the word "during"?

MCCUTCHEON: No.

R. RIVERS: Very well.

PRESIDENT EGAN: Is there objection to the proposed amendment as offered by Mr. McCutcheon? Mr. Robertson.

ROBERTSON: Is that in the present guarantee in the Organic Act?

R. RIVERS: Mr. Hellenthal and I had luck. We found that in the first constitution we looked at, which was the State of Washington, practically none of the other constitutions had anything about immunity from civil process but this was the language used in the State of Washington. It sounds pretty good to me.

PRESIDENT EGAN: Is there objection? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Section 6? If not, we will proceed again with Section 8. Are

there amendments to Section 8? Section 9? Are there amendments to Section 9?

R. RIVERS: I have one which I will offer.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 9, page 3, line 20, after the word 'governor' delete the rest of the sentence and substitute the following: 'He shall in his proclamation state the purpose of the call, but the legislature may also act on other matters and shall be the judge as to the time of its adjournment within the time limit herein prescribed.'"

R. RIVERS: I so move.

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

TAYLOR: I second the motion.

R. RIVERS: Mr. President, this is a fundamental question. You will note that Section 9 is entirely on the subject of special sessions or extraordinary sessions. Section 9 as presently written has for its last sentence, "No special session shall be of longer duration than 30 days." Our present Organic Act says that no special session shall be longer than 30 days. The Organic Act does not state whether the governor shall determine the length of an extraordinary session or whether the legislature shall determine the length of an extraordinary session. Accordingly, at the last session of the legislature the governor took the position that he could call an extraordinary session and limit the time to three days or five days. On the opinion of the Attorney General of Alaska, the Alaska legislature took the position that being a co-equal department in government that once convened it was the judge of when it had completed its labors and it was the judge as to when its time of adjournment should be. I fully believe that if you are going to treat the legislature as a co-equal department of government, that within the limit of 30 days special sessions or extraordinary sessions for emergency purposes or otherwise, the legislature should decide when it has completed its labors and it should not be called into special session for five days or 10 days by the governor who wants to put the grease under it when it may take 15 days or 20 days to cover a major subject and write the bill. So I think that even though we want to be brief in this constitution, we should borrow from some of our past experiences and where there is a disputable question let this body decide that type of issue. Now, there are two points contained in this amendment. The one I have just mentioned as shall the legislature be the judge of the time when it shall adjourn within the 30-day limit. The next question is, may the governor limit the purpose

of an extraordinary session in his call. The present Organic Act says that the governor may call for emergencies or when public necessity or convenience requires, the governor may call the legislature into extraordinary session. On ruling of the Attorney General's office, it was pointed out that although the Organic Act did say that the governor was to state the purpose of his call, the Organic Act does not say that the legislature once convened is limited to just the one subject that the governor specifies or the two or three subjects which the governor specifies. In the absence of any specific limitation it was held that once convened in extraordinary session the Alaska legislature was the judge of when it had done the legislative work it wanted to do and could carry out a few other subjects that arose besides the special subject set forth by the governor in his proclamation as the purpose to call. Well, we have heard quite a bit here about each of these three main branches of government being co-equal under the checks and balance system characteristic of our republican form of government. Now I have found in three extraordinary sessions I have been connected with, two as Attorney General, that invariably when the legislature was called some very timely matters were brought to its attention that were not mentioned in the governor's call. Of course, our legislature was not limited to just the specific objects of the call, so it could pick up those timely matters and while it is waiting for some long bill in a free conference committee, it can be acting on other matters. I don't believe in saying that when you only have a 30-day extraordinary session and you go to all the expense of bringing your legislators together and taking them to your capital, that they should be prevented from exercising their full legislative powers. It is absolutely obvious that they always get to work on the particular subject that the governor called them for. That is what constitutes the emergency or the most important thing that must be done, but you have got them there and if my amendment carries they are going to be the judge as to whether they stay 15 days or the full 30 days or whatever time would be involved, and they are also going to be the judge as to whether they can handle a few other matters during that period of time within the 30-day limit other than the specific things laid out by the governor in his proclamation, so I submit that as the basis for my argument.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I believe probably Mr. McCutcheon wants to bring out the same point. You will notice on line 22 and 23, beginning with the last word on 22, "or presented to them by the governor". In Committee, our feeling was that by putting this into this section we gave the legislators an opportunity to present any bills that they had to the governor and the governor would then present them to the legislature. There was a feeling that the governor should list the subjects in his proclamation, but that the legislature should not be precluded from submitting other bills, but having them presented by the governor would do away with any great rash of

bills being introduced. The important bills would be taken care of. I don't see any limitation in the section.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The failure of Mr. Rivers's argument lies in this principle. He has predicated all his remarks on a single situation which has been predicated on a bill of don'ts, or our Organic Act. We must assume that with little exception, and I say little exception, that a strong executive arm and the legislature will probably be of the same political party. We have not precluded that the legislature will assemble on their own hook. They can do that but we have stated here that in the event the governor calls a special session for whatever duration he may desire, that he sets up the agenda which will be considered, but it does not again preclude the possibility of the floor leaders of the houses taking this other material to the governor and having it approved. I seriously doubt that if the leadership of both houses would approach the governor on this matter that it could be considered well enough, but there would be no reason to stay in session longer than was necessary. There is one other consideration that establishes that there is no need to undertake the amendment Mr. Rivers has, and that is the fact we are hoping there shall be annual sessions. The press of business will not be in the same fashion as it has in the previous years when we have used only the biennial session with extremely rare special sessions, so the Committee felt and discussed, and I will admit there were several points of view at one time on this, that if we were to adopt this particular kind of device, that the governor could call and the governor could dictate. It is a strong executive branch, he is talking to his equal arm in the legislature. On the other hand, the legislature can assemble on behalf to consider whatever they want, so that neither is precluded from putting across the necessary program or taking up a necessary emergency. We must remember that this governor is answerable to the people, he is not answerable to Washington, D.C., he is answerable to the people. Secondly, there will be extremely few exceptions where the governor shall be of the opposite party of the majority of the legislature. I think with these safeguards, the way this particular section is designed, that it is going to give the most complete mobility that we can possibly have in this particular section of our article.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. McCutcheon has brought out several of the points I was going to mention. One is that with annual sessions of the legislature there will be little need for special sessions. Another thing is that it is actually a protection to a special session of the legislature if they are confined to the matters the governor presents because you who have been in the legislature know that the moment you convene the head of every department of government descends upon you with all kinds of proposed legislation,

and I am sure that if there is anything important enough to consider at a special session, you would just as soon be relieved of all that extraneous material. Furthermore, if other matters are presented that you feel are going to take more time, you can poll yourselves and a two-thirds vote will keep you in session for an additional period of time. Is that not right?

UNIDENTIFIED DELEGATE: Yes.

HELLENTHAL: I ask that the question be put.

PRESIDENT EGAN: Mr. Hellenthal asks that the question be put. Mr. Davis.

DAVIS: Before putting the question, Mr. President, I do not get how much of this section Mr. Rivers would strike. He started with the word "governor" in line 20, but I did not get how much was to be stricken.

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

CHIEF CLERK: "After the word 'governor' delete the rest of the sentence.

DAVIS: Thank you.

R. RIVERS: That would mean that the last sentence would be retained. The last sentence being "no special session", etc. Now, as I said there are two parts to my proposed amendment. One is specifying who shall be the judge of the length of their term to accomplish the job for which they are called, and the other is this business of whether they can handle extra matters or not. I see that the Committee has a pretty good argument for letting the governor specify objects of the call, so if I could have a two-minute recess I would like to maybe withdraw my amendment and submit another one.

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

RECESS

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

R. RIVERS: Mr. President, I ask for unanimous consent to withdraw my proposed amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent to withdraw his proposed amendment. Is there objection? If there is no

objection it is so ordered. Mr. Ralph Rivers.

R. RIVERS: Now, for the record, I want to ask the Chairman of the Committee a question. Mr. McCutcheon, would it have been the Committee's intention under the language of your section as submitted that the governor would have any power to limit the length of a special session?

MCCUTCHEON: I can't recall that that particular topic came under discussion. We thought in terms primarily of limiting special sessions. As to whose authority of limitation, I don't think we discussed it.

R. RIVERS: Would it be your interpretation of it as written though that in as much as you have said nothing about the governor being able to limit the length of the session, but you have limited the subject matter of the session, that that would be interpreted that the legislature would be the judge of its adjournment time within the 30 days?

MCCUTCHEON: I think I can speak for the Committee. We assumed that because the governor had control of the agenda to be presented that by so presenting the material he would limit the session of the legislature in special session, except it got to 30 days.

R. RIVERS: Then I must prepare an amendment.

HELLENTHAL: May I ask a question of Mr. McCutcheon? By the use of the word "directed" in line 17, did the Committee feel it would take a majority vote of the Legislative Council to start a petition method in operation?

MCCUTCHEON: We had the advice of Mr. McKay on this, and he stated that in as much as the Legislative Council had the president of the senate and the speaker of the house as members of the Legislative Council, that it would take a majority of the Council. I assumed, to instigate a special session. However, the assumption is also that there may be public demand for it, and the legislators may be writing in as they have occasionally demanded in recent years here, that the governor call a special session, but such has not happened, but it would be the natural assumption of the Legislative Council acting as a whole with the membership of both houses who are on the Legislative Council, that it would require the majority of their vote to instigate the poll of the other members of the legislature.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: That defeats the whole purpose of your section because if the complexion of your Legislative Council was different than the legislature you would not get anywhere because you would

have to have two-thirds of the members of the Legislative Council and you might have some holdovers on there.

MCCUTCHEON: You can always create a contingency which is a very minor exception to the rule. We are assuming that the Legislative Council would be composed of those who most recently reflect the attitude of the people in their elections. I may be in error.

BUCKALEW: Did you consider the possibility of making the polling of the legislature a mere administrative act of the Council?

MCCUTCHEON: Yes, that is right. I will have to ask for some support from the Committee on that but I'm sure that is the case. I yield to Mrs. Sweeney.

SWEENEY: As I recall the consideration in Committee, at a time when there was apparent demand for a special session, the Legislative Council would be asked to poll the legislators. The Legislative Council itself is composed of legislators and it is my understanding that they had to have a majority or any portion of the Legislative Council to demand it. For instance, the legislators from Nome and Fairbanks and Anchorage could write down and tell the Council they thought there should be a poll put out for a special session, and the Legislative Council would do the administrative part of polling the legislators and then if two-thirds of the legislators demanded a special session, that would be called. Perhaps I misunderstood you, Mr. McCutcheon, concerning the majority of the Legislative Council itself.

MCCUTCHEON: I am in error, I apparently misunderstood the question here, but the Legislative Council acts purely as an administrative agent in that respect.

V. FISCHER: Could I ask a question in line with what Mr. Rivers was driving at? If a governor calls a special session of the legislature to consider a specific item and assuming that even though he wants that passed, and the legislature has not had time to pass it, and he sets a time limit, and the time limit has expired, could the Legislative Council in its administrative capacity right then and there, not poll the legislators and if two-thirds of them favor a special session, a special session will start right then and there, which would preclude the need for any amendment?

R. RIVERS: Mr. President, if a session comes to an end and a special session is called, all business of the session that is ended is dead, all bills have to be reintroduced. You don't have a continuity by falling back on this special session idea.

PRESIDENT EGAN: Do you have an amendment pending?

R. RIVERS: I have now an amendment to submit to take the place of the one withdrawn.

HELLENTHAL: Would you object to substituting the word "conducted", perhaps, for the word "directed" in line 17?

JOHNSON: Parliamentary inquiry. I would like to ask the Chairman a question. Regarding the language of Section 9, Mr. McCutcheon, there seems to be some indication that under the provisions of this section the governor may limit the time of a special session. That is, he may fix it at any time less than 30 days. I believe the largest amount of time would be 30 days. Is there anything in the section that would give him the right to fix the time at less than 30 days? I don't understand that from reading the section.

MCCUTCHEON: There is nothing specifically stipulating that the governor can fix it at less than 30 days.

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

CHIEF CLERK: "Section 9, add to the end of the section the following: 'The Legislature shall determine the time of its adjournment within the thirty-day period.'"

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment and asks unanimous consent.

JOHNSON: I object.

TAYLOR: I second the motion.

R. RIVERS: Mr. President, I have asked, for the record and which will be how the courts are going to interpret this constitution, as to whether the standing committee who submitted the proposal had in mind that the legislature could limit the duration of the session within the 30-day period, and Mr. McCutcheon said yes, they could limit the time it would take to accomplish the work required. I will admit there is nothing in here that says the governor can limit the length of the session. It is wide open but some of the Committee members were kind of thinking in terms that maybe he could. We don't want to go through what we went through again. There is no reason why we can't in a simple sentence solve what may turn out later to be a big controversy.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't see the need for this for this reason. When the governor sends out the proclamation and lists the subjects that are going to come up at the special session, and he knows that the members of the legislature will probably bring other bills for presentation, he can't say this is going to be done in two weeks

or 10 days or anything else. He is going to have to leave it open and trust that the legislators will quit when they are through if it is before the 30 days. If the legislators are polled for a session the 60 members can't say it will be for 60 days or 10 days, they have to leave it open. The thing is they will go along until they finish their business and not over 30 days and the legislature will adjourn.

R. RIVERS: I still want to close, Mr. President. It can't happen, but it did happen. There is nothing in the Organic Act that says the governor may state the duration of that special session. There is nothing in the Organic Act that says the governor can call a special session for 10 or 20 days. It says he can call a special session. The Organic Act says that the limit of a session shall be 30 days and so it can't happen, but it did happen, and I don't want to see it happen again, and I don't want to see any arguments about the question in the future. Therefore, I am proposing that we simply specify that the legislature shall determine the time of its adjournment.

KILCHER: I don't know what happened according to Mr. Rivers. I am confused about what happens.

R. RIVERS: At the past session the governor called an extraordinary session for three days. We knew we could not do the job in three days, so we went right on working. At the end of the three days he gave us another three days and then 10 days. We always contended we were the judge of when we could adjourn and he was telling us how long we could stay in special session. Now I don't want that to happen again.

MCNEALY: Neither under the Organic Act nor in the last session were we on annual salary either.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of 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: 23 - Armstrong, Buckalew, Cross, Emberg,
Hellenthal, Hermann, Hurley, Kilcher, King, Knight,
McNealy, Nerland, Nordale, Peratrovich, Riley, R.
Rivers, Smith, Sundborg, Taylor, Walsh, White, Wien,
Mr. President.

Nays: 25 - Awes, Barr, Boswell, Collins, Cooper, Davis, H.
Fischer, V. Fischer, Gray, Harris, Hilscher, Hinckel,
Johnson, Lee, McCutcheon, McLaughlin, McNees, Marston,
Metcalf, Nolan, Poulsen, V. Rivers, Robertson,
Rosswog, Sweeney.

Absent: 7 - Coghill, Doogan, Laws, Londborg, Reader, Stewart, VanderLeest.)

CHIEF CLERK: 23 yeas, 25 nays and 7 absent.

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

ROSSWOG: Mr. Chairman, I would like to make a committee announcement if we may revert to that order of business. The Local Government Committee will meet at 6:10 p.m. in the committee room on the third floor.

PRESIDENT EGAN: Mr. Barr.

BARR: Subject to other committee announcements, I move that we recess until 7:05 this evening.

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that subject to other committee announcements the Convention recess until 7:05 this evening. Are there other committee announcements? If not, the Convention will stand at recess until 7:05 p.m.

RECESS

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

MCCUTCHEON: Mr. President, as a matter of having the record completely clarified with respect to Section 9 pertaining to the amendment that Ralph Rivers offered some time ago and was defeated, I'd like to have the record perfectly clear on the intent of the Committee, that the defeat of that amendment should be conclusive; that the Committee, in bringing out this particular article, or this section of the article, did not intend that the governor should in any way limit, from the standpoint of time, the consideration of any of the necessary business before a special session of the legislature.

PRESIDENT EGAN: Are there any other amendments to Section 9?

BUCKALEW: Mr. President, I think I voted on the prevailing side on that question of the Rivers amendment. I wonder if the Clerk could check.

PRESIDENT EGAN: What does the record show relative to Ralph Rivers's amendment?

CHIEF CLERK: No, you didn't, you voted on the other side.

PRESIDENT EGAN: Are there other amendments to Section 9? If not, are there any amendments to Section 10? Mr. McCutcheon.

MCCUTCHEON: Mr. President, I have an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. McCutcheon.

CHIEF CLERK: "Page 3, line 18, after 'Council', add a comma and insert 'or as otherwise prescribed by law.'"

PRESIDENT EGAN: What is your pleasure, Mr. McCutcheon? Adding a comma after those words, is that what you meant?

CHIEF CLERK: There is a comma there, Mr. McCutcheon.

MCCUTCHEON: I'll move for the adoption of the amendment.

BUCKALEW: Second.

PRESIDENT EGAN: Seconded by Mr. Buckalew, Mr. Stewart.

STEWART: I think he must be referring to Section 9. You called for amendments to Section 10.

PRESIDENT EGAN: Well, Mr. McCutcheon said that he had an amendment to Section 9. I had called for Section 10, that's right, Mr. Stewart, but Mr. McCutcheon didn't realize we were going ahead of ourselves. Will the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: I don't think it's right, because there is a comma after "Council" already.

PRESIDENT EGAN: He probably meant that the comma should come after the words he is asking to be inserted, is that right, Mr. McCutcheon?

CHIEF CLERK: You mean strike the comma after "Council" and insert "or as otherwise prescribed by law," line 18?

PRESIDENT EGAN: The motion was made by Mr. McCutcheon and seconded by Mr. Buckalew. This matter is now opened for discussion. Mr. McCutcheon.

MCCUTCHEON: Mr. President, it has been felt by some that it might be advisable to offer this amendment inasmuch as after the legislature has once gotten into session they may wish to devise some other fashion in which to initiate their own convention, so that the legislature may not wish to use necessarily the Legislative Council as the administrative agent in conducting a poll to bring them into session.

PRESIDENT EGAN: Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McCutcheon be adopted by this 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 Section 9? Mr. Hurley.

HURLEY: Mr. President, I would like to ask Mr. McCutcheon a question.

PRESIDENT EGAN: If there is no objection, Mr. Hurley, you may ask Mr. McCutcheon a question.

HURLEY: If what you just said, Mr. McCutcheon, is true, wouldn't it be possible to strike all the material in line 17 after "the legislators" down through the balance of the sentence? You're depending upon the legislature to make the rules anyway?

MCCUTCHEON: Not necessarily.

HURLEY: Okay, thank you.

PRESIDENT EGAN: Are there other amendments to Section 9? Mr. Harris.

HARRIS: Mr. President, having voted on the prevailing side on this article, on Section 9 pertaining to whether the governor or the legislature can -- anyway, the motion that was made by Mr. Ralph Rivers, I'd like to file notice of reconsideration.

PRESIDENT EGAN: Mr. Harris serves notice of his intention to reconsider his vote on the last amendment that had been proposed by Mr. Ralph Rivers, which was defeated. Mr. Buckalew.

BUCKALEW: Mr. President, I'd like to ask unanimous consent that the rules be suspended and that we take up Mr. Harris's reconsideration now.

UNIDENTIFIED DELEGATE: Object.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent. Objection is heard.

BUCKALEW: I so move.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion that we take up the matter of Mr. Harris's reconsideration at this time. It is a suspension of the rules and is undebatable.

DAVIS: Question.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and Mr. Harris's reconsideration be ordered at this time?"

V. FISCHER: Point of order, Mr. President. I'd like to ask a question similar to the one asked of Mrs. Nordale earlier today, of Mr. Harris, whether or not he favors this reconsideration now?

HARRIS: I would, yes.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and Mr. Harris's reconsideration be placed before us at this time?" The Chief Clerk will call the roll.

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

Yeas: 40 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 8 - Cooper, Davis, Hurley, Johnson, Laws, Londborg, McCutcheon, Nordale.

Absent: 7 - Barr, Collins, Nolan, R. Rivers, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 40 ayes, 8 nays, and 7 absent.

PRESIDENT EGAN: The "ayes" have it. The rules have been suspended and Mr. Harris's reconsideration is now before us. Will the Chief Clerk read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 9, add to the end of the section, 'The legislature shall determine the time of its adjournment within the 30-day period.'"

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I'd like to point out that this amendment was offered when Mr. Rivers asked Mr. McCutcheon a question. The question, as I remember it, was, "Do you feel, as a member of the Committee, that the governor could set the time of a special session?" and Mr. McCutcheon said, "Yes". Then Mr. Rivers said, "in that event, I think I will have to offer an amendment", and

offered the particular amendment here. Now I'm satisfied that Mr. McCutcheon did not understand the question when he made the answer, and I think that's shown by the statement he made at the beginning of the session tonight. Mr. McCutcheon does not, as a member of the Committee or otherwise, feel that the governor, under the language as it now stands, has any right at all to limit the session of a special session other than the general 30day period, which the governor doesn't limit, the constitution does. And for that reason, in my opinion, the proposed amendment is absolutely surplus, it doesn't hurt anything, but it certainly doesn't add anything.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I got directly the opposite impression from the opening action of this session when Mr. McCutcheon, as Chairman of the Committee, felt it necessary in addressing the record and make it clear that it was not the Committee's intent to allow the governor to curtail special sessions. I think if that action is necessary, reconsideration and a change in the vote to carry out that intent is necessary on this amendment.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, the very reason for giving this reconsideration was to get this matter clear and in the constitution, as well as being on the record. There is a difference of opinion, as we can see here, by the two speakers that have already spoken on it. So, therefore, that was the reason I gave my reconsideration, and since the time of taking our last ballot, I have been shown by different parties the reason for the motion being made. Although I felt at the time that the constitution, as it is written the article as it was written covered the subject, being as there are so many delegates that didn't feel it was covered, I am perfectly willing to go along with it and have it written into the constitution.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I read the section, and I get a different interpretation of it than Mr. Davis. If he can give me any clear, convincing, and lucid argument that says the governor cannot cut it off, I'll vote the amendment down.

DAVIS: Are you asking me a question?

BUCKALEW: I'll put that in the form of a question.

DAVIS: I'll try to answer it this way. The section, as written, says nothing at all about the governor allowing or setting the duration of a special session. Mr. Rivers, in his first talk on this point felt that, unless there were a special limitation,

that the governor would have no right to set the time limit of a special session. And it was only because he misunderstood Mr. McCutcheon, or Mr. McCutcheon misunderstood him, that this amendment was made. Well now it seems to me clear that there is no power given in this section, as written, for the governor to limit the time of a special session. He can, of course, under this section, limit the thing to be considered.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Chairman, I think where the misunderstanding came about was in the manner in which the question was presented to Mr. McCutcheon. If there were any way that the governor could control the time that the legislature would be in session, well, the governor, as Mr. McCutcheon explained, has a small power of controlling the time, in that he can only present, or he will be able to control what is presented to the legislature at that time. I think that was the point that Mr. McCutcheon didn't get quite clear to the people here.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye". All those opposed by saying "no". The "noes have it, and the proposed amendment has failed of adoption. Are there other amendments to Section 9? Mr. Hellenthal.

HELLENTHAL: Mr. President, I move and ask unanimous consent that the word "directed" in line 17, Section 9, at page 3, be changed to "conducted".

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent for the adoption of his proposed amendment. Is there objection?

Hearing no objection, the proposed amendment is ordered adopted.

Are there other amendments to Section 9? If not, we'll proceed to Section 10. Are there amendments to Section 10? Are there amendments to Section 11? Mr. Stewart.

STEWART: With regard to Section 10 apparently it is intended that it should be mandatory that there be a Legislative Council rather than permissive with the legislature.

PRESIDENT EGAN: According to Section 10 it would be mandatory, the way the Chair reads it, Mr. Stewart.

STEWART: Does not that set up an agency which is more or less independent of the legislature? Isn't it their prerogative under this to set up such a Council?

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

has the floor. What is your question, Mr. Stewart?

STEWART: I think I should like to introduce an amendment to strike the word "shall" on line 25, under Section 10, and insert therefor the word "may", giving the legislature the authority to establish a Legislative Council, but not directing.

PRESIDENT EGAN: Mr. Stewart asks unanimous consent that the word "shall" be deleted and the word "may" be inserted in lieu thereof on line 25 of Section 10.

KNIGHT: Seconded.

PRESIDENT EGAN: Mr. Knight seconds the motion.

BUCKALEW: Objection.

MCCUTCHEON: Objection.

PRESIDENT EGAN: Objection is heard. Mr. Stewart so moves; Mr. Knight seconds the motion. The question is open for discussion. Mr. McCutcheon.

MCCUTCHEON: Mr. President, it was the feeling of the Committee that the legislature should utilize the services of their Legislative Council. It was the feeling of the Committee that there should be no if's, and's, or but's about it; it is not permissive, they are directed to utilize the Legislative Council, such as we are utilizing at the present time. The tendencies among the states is to more and more go into the utilities of legislative councils. It is an economic factor in the handling of legislative matters because the facts are developed; the investigations are made; the wording of the bill is actually studied by this Committee. There are members of the legislature on this Committee, they develop the material, it's presented to the legislature as a proper product to be considered, and is considered by the legislature. We felt that it was a matter of economy to utilize this, and we did not, in our Committee, desire that there should be any if's, and's, or but's. We wanted the legislature to use a Legislative Council, period. If this body feels otherwise, then you will have to support Mr. Stewart.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, there are duties of the Legislative Council which we have already passed over and apparently approved. If we are not going to have a Legislative Council, then those articles will have to be rewritten.

PRESIDENT EGAN: Mr. Gray.

GRAY: I'd like to ask Mr. McCutcheon a question. Every time you tell a legislature what they are going to do and what would

happen if the legislature set up no money for the Legislative Council?

MCCUTCHEON: I'd assume the Legislature Council wouldn't function.

GRAY: That's just the point that we are bringing up: "shall" or "may". If you are going to give authority to the Legislative Council, they must have the intent and initiative. "Shall" or "may" is no different. If something should happen in the next 20 years where the Legislative Council was substituted by some other activity it would be tied up with the Constitutional Convention.

MCCUTCHEON: There would be at least one constitutional convention prior to that time.

COOPER: As far as the legislature setting up any money for the Legislative Council, your legislatures are now on an annual salary.

UNIDENTIFIED DELEGATE: Question.

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

KILCHER: Mr. President, I'd like to get some information from Mr. McCutcheon. If no reference is made in Section 10 to the Legislative Council may the legislature in the future then establish one anyway?

MCCUTCHEON: Yes, they may.

KILCHER: In other words, if we should not direct the legislature in this article, may it just as well delete all reference to the Council, is that right?

MCCUTCHEON: That's what I would conclude, yes, sir.

PRESIDENT EGAN: Mr. Cooper.

COOPER: May I start again? I was right. The article now states that the legislature shall receive an annual salary, therefore, the members are being reimbursed for their services. This article merely states that the members of the Legislative Council and other committees may receive allowances for expenses. So there is no need for an additional reimbursement.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, how many references to the Legislative Council appear in the article?

PRESIDENT EGAN: How many references appear? Mr. McCutcheon.

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MCCUTCHEON: I believe there is only one other reference in a different place.

HELLENTHAL: That's the one on the question of polling the legislature about the mechanics of conducting a special session?

MCCUTCHEON: That's the one that comes to mind immediately.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Stewart be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye". All opposed by saying "no". The "noes" have it, and the proposed amendment has failed of adoption. Are there other amendments to Section 10? If not, are there amendments to Section 11? Mrs. Nordale.

NORDALE: Mr. President, I don't have an amendment, I just want to ask a question, if I may?

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

NORDALE: Mr. McCutcheon, I notice you say here, "Each house shall have the power to choose its officers and employees." I just want to get this absolutely clear, does that mean that it would be possible to have one central staff to serve both houses, in some capacities at any rate, wouldn't it?

MCCUTCHEON: The reason that we found it necessary to put in that particular wording is because in the line above "The houses of each legislature shall adopt uniform rules of procedure." It may be that one house requires a different number of employees than the other house, so it was felt that it should put this particular sentence in there to clarify that. There is nothing to prohibit them from having a uniform system of employees by having a pool, or labor pool or a clerical pool, and both houses utilize the same pool of labor. However, the prohibition here, you'll notice, does not extend to any officers. In other words, the senate shall choose their president, despite the uniform rules of procedure, and the house shall seek its speaker.

PRESIDENT EGAN: Are there amendments to Section 11? Mrs. Sweeney.

SWEENEY: I have an amendment, Mr. President.

PRESIDENT EGAN: You may present your amendment, Mrs. Sweeney. Will the Chief Clerk please read the proposed amendment as offered by Mrs. Sweeney.

CHIEF CLERK: "Line 11, delete 'of' and insert the words 'to which' after 'of', and after the word 'house' insert the words

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'is entitled'."

PRESIDENT EGAN: What is your pleasure, Mrs. Sweeney?

SWEENEY: I move and ask unanimous consent for the adoption of this amendment, Mr. President.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that her proposed amendment be adopted.

DAVIS: I must object. Will the clerk read the amendment.

PRESIDENT EGAN: Will the Chief Clerk please read it.

CHIEF CLERK: "Line 11, delete 'of' and insert 'to which', and after the word 'house' insert the words 'is entitled'."

SWEENEY: It will now read: "A majority of the members to which each house is entitled shall constitute a quorum to do business."

DAVIS: It is entirely possible, it is clearly understood that it would be a majority of the members to which each house is entitled, but I'm not sure. Maybe Style and Drafting can change it without any action here.

SWEENEY: Well, if it's clear then, I'll withdraw.

PRESIDENT EGAN: Unanimous consent is asked to adopt Mrs. Sweeney's proposed amendment. Is there objection? If there is no objection, it is so ordered, and the amendment has been adopted. Mr. Hellenthal.

HELLENTHAL: I have a question of Mr. McCutcheon. Was there any necessity indicated by the advisors, or anyone else, any legal necessity for the inclusion of the last sentence?

MCCUTCHEON: Yes, sir, there was. At least two, possibly three, of the consultants suggested that the last sentence be inserted in this particular section, because in some instances it had been held that where the constitution was silent, the legislature had no authority to actually control lobbying.

HELLENTHAL: One more question, was attention given to the problem that by the enumeration of certain powers that the inclusion of other powers by inference is more or less defeated, and it is restrictive on the powers of the legislature to specify some and not others?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I have no answer for your question, Mr. Hellenthal. The only thing is that I recall the Committee was concerned about the authority of the legislature to actually control lobbying,

and it was pointed out that in the absence in some states of a specific statement, that lobbying could not be controlled.

HELLENTHAL: Well, in the face of the opinion of those who know much more about it than I do, I'm afraid I'll yield to any objections.

PRESIDENT EGAN: Are there amendments to Section 11? If not, are there amendments to Section 12? Mr. McLaughlin.

MCLAUGHLIN: I move to amend Committee Proposal No. 5 on page 4. Strike Section 12 and substitute the words "Suits against the state for all liabilities hereinafter originating or now existing, shall be provided for by law."

SWEENEY: Point of order, Mr. President.

PRESIDENT EGAN: Mrs. Sweeney, what is your point of order?

SWEENEY: It seems to me that after Section 11 we were to return to Section 8 concerning recesses and adjournments.

PRESIDENT EGAN: After Section 11, Mrs. Sweeney?

SWEENEY: Yes, after the adoption of the paragraph on uniform rules of procedure, it seems to me we were to return to Section 8.

KILCHER: If I may. The intent of my motion to postpone -- I didn't mean that 8 would have to come up immediately after 11. Just any time after 11, that was my intention.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. McLaughlin.

CHIEF CLERK: "Page 4, strike Section 12 and substitute the following: 'Suits against the state for all liabilities hereinafter' originating or now existing shall be provided for by law.'"

PRESIDENT EGAN: Mr. McLaughlin, what is your pleasure?

MCLAUGHLIN: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. McLaughlin moves that his proposed amendment be adopted. Is there a second?

HERMANN: I'll second the motion.

BUCKALEW: Objection.

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

BUCKALEW: I'd just like to ask Mr. McLaughlin a question here. Mr. McLaughlin, don't you think that part of that belongs properly in the transitional measures?

MCLAUGHLIN: In direct answer to that, I don't know where it belongs, and, frankly, I don't know whether you should have a section in there or not. I'm merely substituting another section to clarify it so that it won't be in conflict with the judiciary. If I may have an opportunity to explain?

PRESIDENT EGAN: Yes.

MCLAUGHLIN: It's my understanding that by Section 12 the Committee did plan to authorize suits against the sovereign, that is, to compel the legislature to recognize that law suits could be instituted, that is, monetary claims and factual claims, and tort claims for injuries. The legislature would have to make provisions for those, that is, it would be mandatory, and it is my understanding not from the Committee but it is my understanding that about half the states include such a provision in their constitution one way or the other, either prohibiting the legislature from consenting that the state be sued or directing that it should be done. My concern is this, Section 12, as it now reads, was apparently taken from either the Arizona Constitution or the Washington Constitution. Was it the Washington State Constitution?

MCCUTCHEON: Arizona.

MCLAUGHLIN: And three words were added -- three words at the end of Section 12, "or agencies thereof". Reading this by itself, it would indicate that any suit, and suits by general definition means any action against anyone, and that includes both law and equity, would be subject against the state. Any suit against the state or any agency would be subject to the direction of the legislature, and the legislature could create the court in which that action could be tried. In substance, looking at it alone, it would mean that if someone wanted to institute an action to restrain a commission or board, it would have to go to the court and in the manner prescribed by the legislature. This would be acceptable in the constitution as it reads now, except for the fact that in the Arizona Constitution where they set up their courts, they specifically authorized the courts to try entertaining proceedings and mandamus, certiorari, review, and prohibitions, that is, actions that normally lie against boards and commissions, and my problem here was bringing it to the attention of the Convention, since we don't describe or authorize specifically in the judiciary article the entertainment by the superior court or the supreme court of these actions. It might be interpreted to mean that if you wanted to mandamus, if you wanted to restrain, if you wanted to review, the legislature would determine exactly what court created by them and what procedure would be for this determination. And I move to strike and I

substituted a provision out of Oregon in lieu of the present one so that at least the debate would be in order.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the intent of the Committee in this matter was nothing other than after the judiciary had been set up that they would designate which level of court that any suit against the state could be brought. In other words, there would be one particular level of court in which all suits against the state or their agencies must be brought. It would not be of any further determination as far as the legislature was concerned nor in otherwise concerning or controlling the courts. They would make the one designation when the court system was set up. "This is it. From now on any suits against the state will be entered in that particular court."

MCLAUGHLIN: May I inquire whether it was the intent of the Committee to authorize suits against the state in court?

MCCUTCHEON: Yes.

MCLAUGHLIN: Well, then I feel under those circumstances that the amendment is justified, that is if the Convention decides to authorize action against the state in the constitution.

MCCUTCHEON: I feel that because the Committee intended one thing, I think that this group understands what the Committee intended, that our Committee has no objection if this particular amendment is the thing that makes it perfectly clear what was intended by our group. In other words, the Legislative Committee felt that the state may be sued, period; that the legislature shall indicate which level of court shall hear that suit against the state.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I rise for a question of Mr. McLaughlin. Do you think your language, using the word "liability", would cover the case of claims, such as claims under excessive condemnation or something of that type?

MCLAUGHLIN: I think it would, Mr. Rivers, and it would prevent the creation of claims nonexistent during Territorial status. The word "liability" there helps to clarify it. As I say, that was taken from the Oregon Constitution.

V. RIVERS: Does the word "liability" in any sense narrow the field of jurisdiction in which the sovereign could be sued?

MCLAUGHLIN: It does not, sir.

PRESIDENT EGAN: Any further discussion? Mr. Sundborg.

SUNDBORG: Mr. McLaughlin, in your opinion would the language which you propose here permit suits by taxpayers in matters in which the individual taxpayer is not damaged to any greater extent than all other taxpayers? Are you familiar with the case of Griffin versus Sheldon and the decision of the Court of Appeals?

MCLAUGHLIN: I understand what your problem is. I would say this amendment is not intended to cover a taxpayer's suit, as such. This as originally intended by the Committee, this was intended to cover merely claims against the State of Alaska for breach of contract on a contract between the individual and the State of Alaska. He'd have a court of claims to go to, or some other court, or it also directs that the legislature provide the tort claims, that is, for damages let us say, for negligence by the servants of the state. What I'm trying to do is to keep the taxpayers' suits in the superior courts or other courts, and authorize them.

SUNDBORG: You're not fearful that the use of this "all liabilities" might open this up to taxpayer suits?

MCLAUGHLIN: No.

COOPER: May we have a one-minute recess?

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

RECESS

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

MCCUTCHEON: The Committee had sort of a rough session here, and it was agreed, in the light of Mr. McLaughlin's expression, that for the record that the intent of the Committee is clear and the wording of this particular amendment. I will therefore ask unanimous consent for its adoption, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent that the proposed amendment as offered by Mr. McLaughlin be adopted.

SUNDBORG: I'll object to the motion.

PRESIDENT EGAN: It has already been moved and seconded that the proposed amendment be adopted. Mr. Sundborg.

SUNDBORG: I've had an opportunity to look at the amendment during the recess and I think there is something wrong with it. I wonder if the Clerk would read it.

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

CHIEF CLERK: "Suits against the state for all liabilities hereinafter originating or now existing shall be provided for by law."

SUNDBORG: What it says is that suits against the state shall be provided for by law. Now it may be that Mr. McLaughlin's intention was that the manner of trial of suits or the manner of presentation of suits against the state shall be provided for, but I don't think that he meant that the suits shall be provided for by law. Did you, Mr. McLaughlin?

MCLAUGHLIN: Yes, sir, I did.

SUNDBORG: "Suits shall be provided for law." Then I have a different understanding of the word "suit" than a lawyer has.

MCLAUGHLIN: Could we have about a two-minute recess, Mr. President?

PRESIDENT EGAN: The Convention will be recessed for two minutes.

RECESS

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

SUNDBORG: Mr. President, I would be willing to withdraw my objection, if Mr. McLaughlin, who is a member of Style and Drafting will promise to tell us when he gets into the bosom of the Committee what he intends by this amendment.

MCLAUGHLIN: Gentlemen, it is with great reluctance that I refuse to participate in such conspiracy. It should be on the record and they should know what they are voting for. I shall detail it very slowly if the President will permit me. What has happened is that they have taken from Arizona a provision providing for claims against the state and in Arizona when they authorized the claims against the state, they used this exact language, with the exception of the last three words "or agencies thereof". That's the language that is now presently in Section 12, and it was taken from Article 4 of the Arizona Constitution, and the words added by the Committee "or agencies thereof". But in the Arizona Constitution it provides that there are certain types of courts that shall be set up, the supreme court, superior court, justices of the peace, and other inferior courts. And then, in the Arizona Constitution, they specifically say, just as they do in all other constitutions that use this wording, they say that the superior court shall have jurisdiction in mandamus; it shall have jurisdiction in review, in prohibition, in certiorari. Now those are all remedies that are normally used against public bodies, that is, they have specifically vested the power in the superior court. So it's clear upon reading the Arizona Constitution that what you mean by the language that you have here in Section 12 is for claims against the state, and you're not taking away from the superior court the right to mandamus, certiorari, review, or prohibitions. That is, a taxpayer can go into those courts and

can restrain under the constitution, he can restrain any agency of the government from certain actions. I wanted to make sure also that it was clear here in the Convention, that the use of this language in Section 12, taking the Arizona provision and bringing it in here without any explanation in the judiciary article, it might well be interpreted to mean that for all types of actions -- mandamus, reviews, prohibitions, and certiorari, that the legislature had a right to create a special court, and in that special court all those types of actions would be tried, and you would be depriving the superior court of the constitutional jurisdiction to hear the cases, and I know that that was not your intent. So what I did is that I took from the State of Oregon, this present provision -- and it does appear in other constitutions so that it would make it clear that what you were talking about in substance is that you could, the legislature since it was being directed to, consent to suit on things that it is normally not subject to suit for. That is, the state consented as a sovereign, sets up its own court of claims and provides for procedure. Under the authority of this section and under the judiciary act, they have a right to determine the manner of procedure and everything else and I think my amendment does it. Is that clear?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Is the language which you propose taken directly and completely from the Oregon Constitution?

MCLAUGHLIN: The language which I propose is taken directly from the Oregon Constitution. I have not included the latter half of the provision, which requires that it be by general law if possible, because you have a similar provision later on in your articles on the same subject matter, but it is verbatim out of the Oregon Constitution the first portion of it, and it is not taken out of context.

SUNDBORG: I withdraw my objection.

PRESIDENT EGAN: Objection is withdrawn. Mr. Davis.

DAVIS: Mr. President, I wish to make an objection. I have listened to Mr. McLaughlin and I have read this section, and I have read his proposed amendment, and so help me, I can't see where one is any better than the other. I like the one that is in there now.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I'm sort of in the same position Mr. Davis is in. I frankly can't follow Mr. McLaughlin. I'm a member of the bar, and I don't know what he's talking about.

PRESIDENT EGAN: Mr. White.

WHITE: I'm confused, too. May I ask Mr. McLaughlin a question?

PRESIDENT EGAN: You may.

WHITE: Is it your desire to have these suits brought in superior court, period?

MCLAUGHLIN: No, I do not, but I don't want to deprive the superior court of a jurisdiction which it should have, and, under the wording of this, it could be interpreted as depriving the superior court of this jurisdiction.

HELLENTHAL: Mr. President.

PRESIDENT EGAN: Mr. White still has the floor, Mr. Hellenthal.

HELLENTHAL: Would you yield for a moment?

WHITE: Well, I want to pursue this for just one minute. I'm still confused, because in your amendment, where you say, "shall be provided for by law", how does that differ from the legislature "shall direct by law"? Aren't laws passed by the legislature?

MCLAUGHLIN: That adds another problem that I didn't want to raise at this moment, but in Style and Drafting, we were confronted with this problem: If you recall, we passed an article, a proposal called the initiative, and now we are confronted where certain types of the people were limited in the types of laws that they could institute or initiate, but we find out now that in every one of these sections we say the legislature "shall" and we are trying to determine now whether or not, where we used the expression "legislature" and approve of it, whether or not these proposals which are being passed subsequent to our article on the initiative where we used the expression "legislature" does not limit the initiative power. And so, in every instance where possible, we have been substituting for the word "legislature" the words "by law" so that it would conform to the style of the initiative, if you understand that. Is that clear? For example, Mr. White, in the judiciary article we say, "The legislature shall provide for the systems of courts." If we leave it in there, that means by initiative, the system of courts might be interpreted to mean that by the initiative you couldn't change the system of courts because we specifically said, "The legislature alone can do that." That is a problem that will confront us on every article that now appears, and I believe it is the intention of the Style and Drafting Committee, wherever possible, to use the expression "provided by law" instead of "by the legislature".

WHITE: As it stands now then your amendment reads it could be provided for by the legislature or by the courts? How did initiative get into this? As your amendment now reads, I don't

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see that it reads any differently than Section 12, because you say, "shall be provided for by law", and the way we have been operating, it means "by the legislature".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: After talking to Mr. McLaughlin and others here, I should like to ask unanimous consent that this matter be taken up tomorrow sometime in mid-morning so that members of the Judiciary Committee can briefly assemble and pursue the intricacies of this matter.

PRESIDENT EGAN: You have heard Mr. Hellenthal's request. Is there any objection? If there is no objection, we will hold the matter in abeyance until tomorrow morning. Are there amendments to Section 13?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Will the Chief Clerk read the proposed amendment to Section 13.

CHIEF CLERK: "Amendment by Mr. Buckalew to Section 13; line 21, strike the words 'the senate' and insert 'either house'. Line 22, strike 'of all the senators' and add a period after 'vote'. Line 24, strike 'before the house of representatives' and insert 'in joint session assembled'. Line 26, strike the last word in the line 'of' and on line 1, page 5, strike 'the house of representatives' and insert 'in joint session assembled'."

BUCKALEW: I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves adoption of his proposed amendment to Section 13. Is there a second to the motion?

SUNDBORG: Yes, I'll second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. May we have it read again rather slowly.

(The Chief Clerk reread the proposed amendment.)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I ask a question?

PRESIDENT EGAN: If there is no objection, you may ask a question.

JOHNSON: I presume you would tell us anyway, Mr. Buckalew, but what is the purpose of this amendment?

BUCKALEW: I think it's quite clear. What I have done by this

amendment, I have provided an impeachment can be brought in either house. The impeachment can be brought in the senate and brought in the house of representatives on a two-thirds vote. Impeachment trial is conducted by both houses in joint session assembled. Now this Section 13 provides -- and I don't know why -- that the charge shall be brought in the senate and the trial shall be in the house of representatives. Now I don't know what the thinking of the Committee was on that, but it seems to me that impeachment is such a serious matter, and if either house had any evidence, that that house ought to vote on it and that house ought to be able to get the business started. If the senate knows anything, well, they can bring the charges and then both houses can get together and try whomever they have got to try. I think you should consider that impeachment is not like a criminal trial; there is no imprisonment or anything, it just provides a method of getting rid of a corrupt official. If an official is corrupt I'd like to see the way made easy to get rid of him, and the way to do it is to provide that the charges can be brought in either house, such as I have done. Now it seems to me that the senate, according to this article here, the senators have to be 25 years of age, and I think the members of the house have to be 21, and if they were thinking of a judicial proceedings, it looks to me like they would have had the charges brought in the house and the trial in the senate. After all, they are older and are supposed to be more mature. I think my amendment is logical, and I think my amendment provides an easy and speedy removal of corrupt officers, and, at the same time it provides enough protection, and it has to be by two-thirds vote of all the members in joint session assembled. They have got the added protection of having a superior court judge there to see that is is a regular trial.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I was a little curious about this article in its original form because of the reversal of the procedure, but now isn't it a little odd to have the same people that bring the accusation sit in judgment? And that's what you have here, isn't it? That is, a part of the jury would be the people who brought the charges, isn't that right?

BUCKALEW: May I answer that question?

PRESIDENT EGAN: You may answer the question, if you wish.

BUCKALEW: I think we ought to be realistic about it. An impeachment thing, noise is going on in both houses and you're not going to have any, what you call divorcement, from the prosecutor, and it just doesn't exist in an impeachment trial. It is an unrealistic attitude, I think. I think this amendment has real merit for the reason that a corrupt officer can be hit with either house, and I think that one house, particularly

the senate, could protect a corrupt officer, and the senate might be closer to the executive, and they might be trying to get at one of the executive officers, and if the house doesn't have enough to carry it, then during the trial he would probably be acquitted. But the beauty of this amendment is that the official is going to know that either house can bring it. What he'll probably do is resign and go to Seattle.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, this is one of the sections in which I do not concur, and I have an amendment to present, but Mr. Buckalew was quicker on his feet. When this arrangement was first read into the proposal having the impeachment start in the senate, one of the statements made in the Committee was that it would be better to have the proceedings started by the senate for the simple reason that the members of the house were brand new and might get off on a tangent, or just not too wise in all the ways. So when they thought they would have the procedure start in the senate, I too, thought it should be heard in joint session, and our consultants told us that that was not very good for the reason that the people who were bringing the impeachment were also sitting as judges. I would like to have my amendment considered, too, and I'm wondering if I could get Mr. Buckalew and take a two-minute recess and perhaps talk over this with Mr. Buckalew.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for about three minutes. Mr. Barr.

BARR: Mr. President, I would like a few minutes before we recess. Of course, I have all the objections to the amendment that have been presented, and more, but I would like to point out that this same subject was considered in two committees, in the Legislative and one on the Executive Branch, and they came out with practically the same thing, except that the two houses are reversed: the charges are made in one instead of the other, and the other house sits in judgment. Now those two committees gave this quite a bit of consideration then, and they had the advantages of listening to experts and having a thorough researching on it from other constitutions and books that were available, and in spite of my admiration of Mr. Buckalew's legal knowledge and his good judgment, I still would have to go along with these two committee reports.

SWEENEY: I still want a few minutes' recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

BUCKALEW: Mr. President, during the recess I got together with some of the members on the Committee, and I'd like to ask unanimous consent to withdraw my proposal on the understanding that Mr. McCutcheon will introduce a proposal I just looked at.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that his proposed amendment be withdrawn. Is there objection?

HINCKEL: Objection.

PRESIDENT EGAN: Objection is heard. Mr. Hinckel.

HINCKEL: I just don't like this more or less collusion that's going on. I think the original committee proposal is a better proposal than anything that is about to be offered, and I don't think the proposal has been properly explained. Now if Mr.

McCutcheon will first explain the committee proposal as we discussed it in Committee, and then if he wants to go ahead and submit another proposal, why, I'll go along with it, but I think the committee proposal should be at least given a fair shake and fair explanation. We have had the unique distinction of having our one dissenting member offer the explanation so far on the committee proposal.

BUCKALEW: Now, Mr. President, before we go any further, I'm going to take exception to Mr. Hinckel's remark about collusion. I don't even know what the word means. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew, objection has been heard to your being able to withdraw your amendment. Mrs. Sweeney.

SWEENEY: I just want to say that if Mr. McCutcheon is going to have an opportunity to explain his amendment before the withdrawal of Mr. Buckalew's, then I'll expect to have the same opportunity to present mine for consideration before Mr. Buckalew's is withdrawn.

PRESIDENT EGAN: I believe that in this circumstance it is proper that the Chairman of the Committee explain the reason for having the section in the first place. Mr. Armstrong.

ARMSTRONG: When I think of the number of times that we have missed the boat on amendments because the committee has not explained the proposition before we've had amendments, and I wish we could follow the whole procedure before we have any amendments on a section, ask the committee if they have an explanation of it. I think we could head off an awful lot of amendments that are unnecessary, or we would have an intelligent grasp of the committee's viewpoints, and then be able to see the amendments in that light, and I wish we could follow that procedure. Here we are clear to the end of the discussion and now we ask the committee chairman to give an explanation of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think for the record that I should state that I was the one that put Mr. McCutcheon on the spot, he didn't know anything about it. I sort of left him in the barrel with a bunch of tigers, but he didn't have anything to do with this. This was my idea.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it is not my intention to offer an amendment to our article, --

SWEENEY: Then I'll withdraw my objection.

MCCUTCHEON: I will give the majority Committee thinking with respect to the article the way we have developed it. From time honored fashion, which stems from probably beyond the history of the United States, is that the charges shall arise in an impeachment proceeding in a lower house and be tried in a so called house of aristocrats, or lords, or senators, if you please, the feeling being that the upper house represents the upper crust of society. In this particular instance, it has been the feeling of the Committee that the charges might arise in the senate because the charges that will be presented by the senate may be leavened by the fact that only half of the senators have been elected at this time. So there could be no irresponsibility of the new house in the event it was a complete turnover of personnel or legislators, and that if the charges had sufficient merit, they should be tried before the new house, which is the house that was last completely responsible to the will of the people. In other words, if there is merit in the charges presented by the senate, then certainly the new representatives, who are the last ones who have responded in the largest group to the will of the people, the most of the people, if they find the executive has been culpable of the crimes he has been indicted for, then let him be thrown out. If he were tried before the senate on the charges by the house, the charge might be hurled at the house members that they are brand new, they know nothing of the problem, and that in this particular instance they may be operating on a strictly political basis. But on the other hand, with half of the senators at least held over, that certainly will have a leavening effect on the judgment of the senate in bringing the charges, but if those charges can be sustained in a brand new house, which may not have any political alliance but is the last group most completely responsible to the will of the people, then certainly it appears to us, or appeared to the majority of our group, that that was the fairest method of considering an impeachment.

PRESIDENT EGAN: Mrs. Sweeney, did you wish to be heard for reasons of entering a minority report?

SWEENEY: Mr. President, my statement a few moments ago concerning an amendment which Mr. McCutcheon, I thought, was going to introduce, and I figured if he was going to speak on that, I wanted to speak on the amendment I wanted to put in. In one breath Mr. McCutcheon has stated the "irresponsibility" of the lower house, and for that reason he wants the charges brought in the senate, yet he would have those "irresponsible" house members make the final decision in an impeachment. I believe -- and I don't care if it's 150 years old or 200 years old -- I believe the system that has been in practice is the system to follow, and I would like to reverse the procedure so that it will be the same as that in the Judiciary Committee, which would be to bring the impeachment in the house and to have it heard in the senate.

PRESIDENT EGAN: We have before us Mr. Buckalew's proposed amendment to Section 13.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" Mr. Buckalew.

BUCKALEW: Mr. President, before we barrel-roll this thing, I'd like an opportunity to make a few remarks on it. I feel that my amendment has merit, and I feel that although it might be historically different than what is used in the United States Congress, that it protects the people of Alaska more fully than any other impeachment procedure that we now have. There is no opportunity for a public officer to hide behind one house, because if either house has evidence and it develops that the evidence is well-founded, then it takes a two-thirds vote. And I think that even members of the house are not as young as everyone around here would think they are. I mean when it comes to presenting an impeachment charge, I think that either house will see that there is good and sufficient evidence. And I believe that this amendment will protect the public in that it will insure to the people that if there is evidence we will know that both houses will hear it and that there won't be any chance for either the senate or the house to suppress evidence, because the way the article is drawn now the senate -- I don't understand the logic of that, and I heard Mr. McCutcheon -- the senate can protect anybody. Under my amendment nobody is going to be protected, except by the two-thirds vote, and then at the trial it's going to have to be by majority of two-thirds of the houses in joint session assembled. I think it has merit, and I ask you all to support it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, could I ask Mr. Buckalew a question?

PRESIDENT EGAN: You may, Mr. Barr.

BARR: Two questions, in fact. You're assuming, of course, that there will be a house of at least 40 members, are you in this, at such a trial?

BUCKALEW: Well, that's according to the articles I have seen, that's my assumption.

BARR: Then if the house initiated this impeachment and they sat in judgment with joint session with the senate, and the senate didn't agree with the impeachment proceedings or the accusation, but the house had 40 members and could make a two-thirds majority, then the house would be initiating the proceedings and the house would be sitting in judgment and the house would make the judgment in spite of the senate.

BUCKALEW: If the house voted 40 to zero, I think he should be impeached.

UNIDENTIFIED DELEGATE: Question?

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

LONDBORG: May we have it read again, please.

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

(The Chief Clerk read the amendment again.)

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

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

Yeas: 6 - Buckalew, V. Fischer, Hurley, Kilcher, Sundborg, White.

Nays: 44 - Armstrong, Awes, Barr, Boswell, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 6 ayes, 44 nays, and 5 absent.

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PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Mrs. Sweeney.

SWEENEY: I have an amendment.

PRESIDENT EGAN: Mrs. Sweeney, you may present your amendment. The Chief Clerk may read the proposed amendment as offered by Mrs. Sweeney.

CHIEF CLERK: "Page 4, line 21, delete 'senate' and insert 'house of representatives'. Line 22, delete 'senators' and insert 'representatives'. Line 24 delete 'house of representatives' and insert 'senate'. And page 5, line 1, delete 'house of representatives' and insert 'senate'.

PRESIDENT EGAN: What is your pleasure, Mrs. Sweeney?

SWEENEY: I move and ask unanimous consent for the adoption of this amendment.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the proposed amendment be adopted. Objection is heard.

HARRIS: I'll second the motion.

PRESIDENT EGAN: Mr. Harris seconds the motion. Now just where does that differ from the last amendment, Mrs. Sweeney?

SWEENEY: The impeachment arises now in the house and is heard by the senate rather than in joint session. This is the general practice now.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, point of information. This is practically, in substance, it is the same as the recommendation of the Executive Committee.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I understand that the Executive Committee had not come out with a recommendation one way or the other.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: On our article in the Executive, we discussed impeachment, but we left that to the Legislative, we showed no impeachment proceedings.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: May I ask Mr. Victor Rivers to tell us what plan they did consider?

PRESIDENT EGAN: Mr. Victor Rivers would you care to answer Mrs. Sweeney's question?

SWEENEY: It's the same plan that I presented, practically.

V. RIVERS: I would like to discuss the amendment. I would speak to the amendment at the present time. I feel that this puts it back in the position where you have the older and more mature body making the final decision. I noted with some interest the statements in regard to Mr. Buckalew's amendment that the senate would "protect" somebody. I don't think members of either house are interested in protecting somebody who is not properly performing their duties and who should be subject to impeachment under whatever grounds might be established. This section establishes no special grounds; they shall be established by the legislature. What impresses me most is that I wonder what would be the effect upon the Congress that is going to approve this constitution if they saw that in the smallest body of the legislature we brought the impeachment proceedings and the motion originated, and then the trial was conducted in the largest body consisting of the youngest members with the least experience. It give me considerable number of qualms to think of what they would think when they saw our actions in this manner. I don't think they would follow or agree with the reasoning presented for the section as it stands now. I know I personally do not. I don't feel though, with other members of the floor who have spoken that there would be any tendency of any large group of people like that to protect any malfeasance or misfeasance in office. It seems to me that either body would be equally honest in approaching the problem. The question is where the final judgment should lay, rather than one of where there would be the least or most protection.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to apologize for making a misstatement. This matter was considered at great length in the Executive Committee, and I had forgotten that we had finally left it out and left it up to the Legislative, but I don't mind stating that it was general sentiment, I believe, at that time that it should be initiated in the lower house, the proceedings, and tried in the senate. At the present moment I'm not leaning either way very much, as long as it's left to the two separate houses.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I would like to address a question to Mr. Rivers, if there is no objection, to the statement he just

made. I had been wondering about this article, in that the grounds for impeachment weren't specified here, and I believe you stated that if they are not specified here that means that the legislature can specify?

V. RIVERS: That would be my understanding of it. Impeachment proceedings carry with it disgrace and so forth, but no punishment penalties. The article here leaves it open for the judiciary to go ahead and try them on any criminal action which they might have actually been guilty of. This impeachment is merely a manner of removing them from office for malfeasance or misfeance in office, and I assume that would be the grounds. Others, perhaps, may be better informed on that than I am.

EMBERG: I would like to have that clear, if we are setting up procedure here for impeachment, that we would require a constitutional statement of grounds, or whether it is perfectly proper to leave that to the legislature.

V. RIVERS: I'd like to answer your question in just one further degree. Most of the state constitutions do not set up the removal of all civil officers by impeachment as is done here. It is generally limited to the principal elective and appointive officers, generally the governor, the lieutenant governor, and various other elective department and appointive department heads. The principal officers are the ones that they generally limit impeachment to. The grounds in most cases are not stated as they are here.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: In partial answer to Mr. Emberg's commentary here it states on lines 22 and 23 "Such motion , referring back to the motion for impeachment, shall list fully the basis for the proceeding". In other words, they have to recite the facts that they are predicating their impeachment action on.

EMBERG: I understand that, but I was wondering --

MCCUTCHEON: Do you feel that it is necessary that the specific grounds should be established in the constitution?

EMBERG: I was just wondering whether we would be in a legally better position if we did specify the grounds, such as malfeasance and misfeance in office rather than leaving it blank, or whether it would be perfectly proper to let the legislature write that. We're setting up a very serious article. I wonder if we should leave this blank. There is no specification of charges other than what the statement that they shall be given notice of cause whenever they are served on them. That doesn't seem to be much protection for the individual.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I'd like to ask Mr. McCutcheon a question. He says in Section 13 the trial of such motion shall list fully the basis for the proceeding, and then in Section 14 on the joint address -- removal for joint address -- it says, "may be removed for cause which need not be sufficient ground for impeachment". What is the distinction, if you can make one, between "ground for impeachment", which are set forth, and then in Section 14 they say, "which need not be sufficient ground for impeachment"?

HARRIS: Point of order, Mr. President. Isn't the question before the house is whether they will be tried in the senate or tried in the house, instead of what grounds they are being tried on?

PRESIDENT EGAN: That's correct, Mr. Harris, but then it might affect -- Mr. Emberg seriously questions that particular question.

EMBERG: I seriously question it, but I think it should be brought up one at a time.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think I have one argument here in favor of the section as it is, namely, that two-thirds of the senate is 14 members, and two-thirds of the house, as it is now assumed to be, is 27 members. Now in view of the fact also that the senate has a longer tenure, it can be better acquainted with the official in question: and there is also this advantage, that only 14 persons will have to be in on the facts, if the facts have to be divulged before these 14 persons; and in case the grounds are found to be not sufficient for the motion to be carried, and it only involves 14 persons, and 14 persons that have had longer legislative standing. It will be less grave a case than as if 27 persons had been involved in the motion should it not carry.

PRESIDENT EGAN: The degree of this amendment opens this whole section to any type of discussion. Mr. McNealy.

MCNEALY: I'm opposed to the amendment, and I intend to vote against it and to vote against all amendments that are opposite of that in the Committee, unless in some point the committee report is harmful to the constitution. We're going over so many of these things merely for the purpose of change. I can't go along with the maker of the amendment or with anyone who has spoken or will speak, using as their only basis that the senate is older and more mature. Good old Sam Rayburn in the federal Congress, or if you are a Republican, look at Martin in the federal Congress and I have seen some very callow and immature men in our Territorial senate, and I have seen some very mature men in the house of representatives, and vice versa; so that's no argument. I believe that if the Committee here felt that there was sufficient grounds to change it over here, I think that the

Committee should be upheld, and if they feel that the house of representatives is the more representative body and that 40 of them will give a better trial than 20, then I'm with the Committee.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask one question of Mr. Rivers. What particular distinction do you see between the report as the Committee brought it out and the other method of having it originate in the house and be tried in the senate, other than that of common or general practice?

V. RIVERS: Well. I don't see much difference, except for the matter of common and general practice. I noted the other day that in regard to the discussion of the grand jury, the grand jury was the indicting body, and they had, at the present time, under Alaska statute, 23 members, and they tried the case and final action before the judge and the members of a 12-member jury. You have the same pattern there and of course back in England you had the same pattern that the amendment asks that we follow here, and we have it in practically all the other states, and we are just reversing the procedure. And while I shouldn't perhaps have said that the youngest members lie in the house, at least the requirements call for the youngest members. It allows a certain differential age limit to those running for the house, but it doesn't necessarily imply that they will be younger or will be less experienced. But it perhaps is true that the preponderance, the greater majority of that body will be somewhat younger, and somewhat less experienced than the older body. Those are the answers that I have, and those are all.

MCNEES: Do you not think then that the Committee thinking with regard to the value of the house reflecting more recently that of the electorate, that that factor might outweigh that of traditional thinking?

V. RIVERS: I would answer that by saying that without a question of a doubt in my mind, that I could say that I think the matter of appearing before and being elected by the public would have nothing to do whatsoever with the maturity of the judgment of the individuals elected. It would not reflect the maturity of the judgment of the public in the matter regarding the misfeasance and malfeasance of some public officer in office. It seems to me to be the diametrically opposite approach to what it should be to render the best justice.

UNIDENTIFIED DELEGATE: Question.

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

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

Yeas: 18 - Armstrong, Boswell, Cross, Gray, Harris, Johnson, King, Laws, Londborg, Metcalf, Nolan, Poulsen, Reader, V. Rivers, Stewart, Sundborg, Sweeney, Walsh.

Nays: 32 - Awes, Barr, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Riley, Rosswog, Smith, White, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, Taylor, VanderLeest.)

BARR: Mr. President, I would like to change my vote to "no".

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

CHIEF CLERK: 18 ayes, 32 nays, and 5 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. The Chief Clerk may read the proposed amendment as offered by Mr. Buckalew.

CHIEF CLERK: "Page 4, line 21, beginning with the words 'senate' delete the balance of the line, and on line 22, up to the period, insert in lieu the following: 'either house and shall be by two-thirds vote of all the members of such house'. Page 4, line 21, strike 'of representatives' and insert before the word 'house' the word 'other'. Page 5, line 1, strike the words 'of representatives' and insert in lieu thereof 'hearing the matter'."

JOHNSON: Point of order, Mr. President.

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

JOHNSON: Isn't that substantially the same substance?

PRESIDENT EGAN: The Chair could not answer that because the Chair wasn't able to follow the proposed amendment.

BUCKALEW: I'll answer that, if you care, sir.

PRESIDENT EGAN: Proceed, Mr. Buckalew.

BUCKALEW: This provides for impeachment being brought in either house and tried in the opposite house, so it's materially different than the first amendment. I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves adoption of his proposed amendment.

SUNDBORG: I'll second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. Mr. Sundborg.

SUNDBORG: I think it was pretty clear from the debate we had here on Mrs. Sweeney's motion that there was no feeling very much on either side from the members here. They just felt in one case it was traditional and in the other case they would like to stick by the Committee, they don't care in which house these charges are tried, particularly, but I do think it should be the other house. On Mr. Buckalew's motion I might say that I had started to write out the identical motion here. Let the charges arise in either house just so long as they are tried in the opposite house.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I, too, really don't care which house it is originated in or tried in, but I still say that this Committee has studied this matter far more than I have. So I'm going to stick to the committee's report.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Someone might be interested in knowing that the consultants, of whom there were several here at the time this article was written, commented very favorably upon this innovation, if you wish to call it that. It met with considerable favor.

BUCKALEW: Did the consultant comment favorably on this proposal, is that what you meant?

HINCKEL: I have no knowledge of what the consultant would have thought of your proposal.

BUCKALEW: That where it originated in either house?

HINCKEL: I have no knowledge of what they might have thought of that, but I do know I have a bad time remembering names, but Mr. Bartley I think it was, examined this committee proposal and commented very favorably on it, and so did at least two others.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to rise to a point of personal privilege.

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

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

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I remember going before a faculty of long-gray-whiskered fellows, and I talked to them about a deal, and they said "No," and I said "Why", and they said, "We have never done it that way." And I said, "Is that any reason why you shouldn't do it this way?" I don't know why we can't go along with the Committee. It's a good deal, and I'm going to stick with the Committee and continue to do so until I've got good and sufficient reason to change.

UNIDENTIFIED DELEGATE: Question.

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

DOOGAN: Mr. President, may we have a recess?

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 13? If not, the Chair would like to state that perhaps, in line with the suggestion made by Mr. Armstrong, that henceforth it might be well that in all instances where sections come up and it is evident that amendments are going to be made to those sections, that the chairman of the committee be asked at that point to give the committee explanation of the particular section; if it is evident that there aren't going to be amendments to a particular section, it would not be necessary to have the chairman give such an explanation. If that is in line with the feeling and thinking of the delegates, that is the way the Chair will proceed. Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I propose to move to strike all of Section 14.

PRESIDENT EGAN: Mr. McCutcheon, would you give an explanation for the reason of having Section 14?

MCCUTCHEON: The thinking of the Committee -- and I think in this instance I speak for all of the Committee -- was to the effect that an impeachment proceeding is perhaps a more cumbersome affair than removal by joint address. Impeachment connotes, let us say, high crimes in office. There may be other reasons

why a person should be removed from office, and they may not have anything to do with high crimes or the neglect of that office for one reason or the other. They could be for senility or gross negligence, or the person may just be inept in that particular job, they aren't high crimes. It's no crime to be senile because of age; it's no crime to be inept. You may be a criminal in a moral sense of the word if you seek a job not having qualifications to support your application for that job, and it may be that after awhile in office one becomes an alcoholic and becomes negligent because of that. The reason that the Committee felt that there should be something other than impeachment is that removal by joint address does not require the signature of the governor. The legislature can remove from the strong executive arm some person who may not be completely functioning in office but who could not be impeached necessarily because they have not committed some type of a high crime or treason. Consequently, it was the feeling of the Committee that there should be some facility available to the legislature to reach into the Territorial government and remove people who for some reason, other than a high crime, are not fit for office.

PRESIDENT EGAN: Mr. Hellenthal.

HELLE'NTHAL: Mr. President, a question of Mr. McCutcheon. Where did the word "joint address" come from, or the phrase?

PRESIDENT EGAN: Mr. McCutcheon, could you answer that question, or could any other member of the Committee?

MCCUTCHEON: Would "concurrent resolution" suit your purpose better?

HELLENTHAL: Well, I would like to know where this came from -if anybody knows?

MCCUTCHEON: Yes, I know where it came from.

HELLENTHAL: Where?

MCCUTCHEON: It came from a member of the Legislative Committee.

HELLENTHAL: Did he take it from any source anywhere?

MCCUTCHEON: I believe that it originally came out of the State of Kansas I believe it was in the Kansas Constitution.

HELLENTHAL: Well, that answers my question. Mr. President, I'm inclined to agree with Mr. McLaughlin. (To Mr. McCutcheon): I think you have answered my question. I want to speak just briefly on the amendment.

PRESIDENT EGAN: The matter is opened for amendment right now. There is nothing before us. Mr. McLaughlin.

MCLAUGHLIN: May I ask Mr. McCutcheon a few more questions to clarify this thing?

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

MCLAUGHLIN: Mr. McCutcheon, I'm perturbed about two things in here. One, if Section 13 doesn't state what the ground of the impeachment, the causes of impeachment are, what is a lesser cause which is required to be stated at length in the joint address? Could anything be put in, such as your politics?

MCCUTCHEON: It was not the intention of the Committee that this type of a thing should be used for any political purpose.

MCLAUGHLIN: May I inquire, Mr. McCutcheon, can you think of any circumstance in which the legislature would ever, if Section 14 is approved by the Convention, can you think of any circumstance or any time when the legislature would ever bother to use the impeachment procedure in Section 13 when they can accomplish the same thing with lesser causes, without any cause, under Section 14 by a majority vote of both houses?

MCCUTCHEON: If I recall our article correctly, you can't remove the governor by joint address.

MCLAUGHLIN: But isn't it true that you may remove a civil officer, includes the supreme court and superior court and what concerns me is this, if the Democrats control both houses of the legislature, then by a 51 -- majority vote, they can remove all the Republicans, including the entire constitutional judiciary, and the same thing applies if the Republicans controlled both of the houses. Then they can automatically remove all the constitutional judiciary, every officer of the state, except the governor, isn't that true?

MCCUTCHEON: If you feel that the legislature would be so insincere, and if you challenge the legislature's integrity to that point, then I would suggest that you strike it. We must place our confidence in some fashion.

MCLAUGHLIN: I move to strike Section 14. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

SUNDBORG: I'll second the motion.

PRESIDENT EGAN: Mr. McLaughlin moves and Mr. Sundborg seconds the motion to strike Section 14. Miss Awes.

AWES: I would like to ask Mr. McLaughlin a question, Mr. President. Any civil officer, does that effect civil service employees?

PRESIDENT EGAN: Mr. McCutcheon?

MCCUTCHEON: Well, I'm afraid that I can only say this -- I would say that it meant anybody working for the State of Alaska, period, outside of the situation here, that is, excepting the governor.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: How do you fire somebody?

MCCUTCHEON: What does this mean?

HELLENTHAL: It takes a concurrent resolution of both houses of the legislature to fire him?

MCCUTCHEON: It certainly does, if the legislature wants to remove him from office.

HELLENTHAL: If a man becomes a drunk, do you have to drag him through a concurrent resolution of the legislature?

MCCUTCHEON: You are seizing upon the fine interpretation of it. It doesn't mean that.

HERMANN: Mr. President. I rise to a point of order.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: I think the two delegates should address the Chair and not each other at such length.

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

MCNEES: Mr. President, I would like to point out that this is for cause only, and the cause must be stated in joint resolution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, Mr. McLaughlin said there were two things about this that bothered him. There are three things that bother me, there is the beginning of it, and the end of it, and everything in between. This is the gosh darndest thing that I ever saw in my life. I know that if there had been such a law as this in the statutes of the Territory of Alaska the head of every department and probably the assistants and several tiers under them in the government would have been removed by the legislature which met in Juneau in 1953, and,

I'm equally certain that the legislature which met in Juneau a year ago would have removed just about to the same extent every officer of that administration. I hesitate to say that this is un-American, because that word has been overworked, but it certainly is un-Alaskan. I think it is unique. I'm sure it does not appear in this form in the Constitution of Kansas or any other state, that by a simple majority vote of both houses of the legislature you can fire any member of the administration. We talk here about setting up a strong executive, and here we are getting back to a thing where the legislature, by a simple majority vote can get rid of any member of the administration. I certainly support the motion to strike Section 14.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, earlier in our meetings here we had discussed the possibilities of two articles conflicting, I think this is one of the cases where they do. I think the article on legislature there is dealing with something that should be handled in the executive article, and is covered in the executive article, Section 14, page 7, if some one would like to look it up. I think it's covered a little more adequately in that section. If you'd like, I could read it to you. It's a short paragraph. It says, "The governor may make such changes in the administrative structure or in the assignment of functions as may, in his judgment, be necessary for efficient administration. These changes shall be set forth in executive orders which shall become effective at the close of the next regular session of the legislature, unless disapproved by a resolution concurred in by a majority of all the members of the legislature meeting jointly.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I'd like to address a question to Mr. McNees for a change, since he brought up the fact that it says here they must be removed for cause. What specific cause do you have in mind?

MCNEES: I would say it would be most any cause for which the bringers of the petition would hold themselves liable. In other words if there was just reason to bring action, it could be held providing the vote was secured by joint address.

V. FISCHER: If I may try to insist, I asked for a specific, such as what, for example?

MCNEES: There have been several cited and I can reiterate on those. I would say drunkenness for one. I would say there are other causes short of those where impeachment proceedings would be used that would be equally applicable.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I'm really scared of this section. (To Mr. McNeas): Thank you, Mr. McNeas. The standard procedure for removing civil officers is impeachment, when sufficient grounds exist. We have already gone through a section which provides for impeachment. The body showed its faith in the Committee there by not changing anything. In this case we are faced with something that isn't tied down. We have had the example of drunkenness brought up. Drunkenness can be covered by general law: "No alcoholic shall be employed in the services of the State --" (Laughter)

PRESIDENT EGAN: The Convention will come to order.

V. FISCHER: I'm serious, Mr. President. I think I'm very serious on this. I think employment in the civil service of the State, employment in the judiciary service, which this covers, employment in the legislative service, including legislators in this case, must be acted upon. I'll leave out the legislators, since they can handle their own affairs. But we must deal with those by general law. The standard way is to set up a civil service commission, if the legislature feels it necessary, they prescribe the standards. They can set a maximum age limit and authorize removal for senility. They can authorize removal by the civil service commission on any other grounds, but this kind of authority to the legislature to pass special, personal, individual legislation seems dangerous. I mean, Mr. McLaughlin sort of joking brought up the political aspect, I think it opens it up to mayhem here. And I'm not in the least bit trying to be amusing. I think that it does open the way to removal practically without cause, where general law is sufficient.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I'd just like to say that the "for cause" clause is protected in other parts of the constitution. They could not be removed for their race, creed, color, or religion, as I see it.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I'd like to point out that, if I read this section correctly, we can completely upset our judicial system, our independent judiciary, as broad as this section is.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, if I may sum up, unless there is some concern that I am not aware of what is happening. There is no cause required to be shown under Section 13. which is

the impeachment procedure and most impeachment proceedings, historically, have not been judicial proceedings, they have been political. But I might point out that a lesser cause and under Section 14 it says, a cause which need not be sufficient ground for impeachment. In substance, I'm a Democrat, but I will appreciate if the first state legislature were predominantly Democratic, they could take Judge Cooper's speech of last night, remove the jokes, and then remove all the Republicans from office. As to my attitude on the subject, I did have in here, and I thought it was in bad taste and withdrew it, an amendment providing that in Section 14, line 1, that we would strike the words "the governor" and substitute the word "democrats" and exempt all of them from removal. And I signed it Andrew Jackson McLaughlin. Frankly, this is the spoils system, and I feel that if this were ever approved, that the whole constitution would be repudiated at the polls. You can remove every constitutional officer except the governor. It would be unacceptable to anyone.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I remind Mr. McLaughlin that that is for cause only. I don't think that these fears are justified. I don't see in anyway why you're afraid of it. I just fail to see your argument.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I do not intend to speak against Mr. McLaughlin's amendment, but I would like to state that the Committee had no idea of any of the things that we have been accused of, and our intent was merely to permit some unfortunate person, who was holding office in the state government and who for reasonable cause should be removed, that to permit him to be removed without blemishing his character and his record by impeachment, and that was the intent and the only intent that we had.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I'm in favor of Mr. McLaughlin's amendment. It seems to me if there is such an unfortunate person that probably the legislature would cut off his pocketbook.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Chairman, I would like to give a little idea of how I feel about this. I don't ever remember seeing the original source of this article; we discussed it, however. Right here I found in the Constitution of the State of Wyoming, which states who may be impeached: "The governor and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only

extend to removal from office and disqualification to hold any office of honor, trust, or profit under the laws of the state." I think that is where our Committee fell down by neglecting to include that. It states in another section: "Removal from Office. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law." Now that amounts to much the same thing, and is just about as much un-American as I can think of, since it can be done by law and by the legislature. And I think that we were lax on this job, but I can see where there was some justification for it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, under this section, where the legislature removes a department head or any other civil officer, it was brought up here that there would be less notoriety, less publicity in case he was a well-meaning individual. Now, we'll take the case of where the governor wants a person removed and the legislature wants him removed, and if you have to go through this process, you will get publicity. This flouts the theory of a strong executive, which I believe the majority of this body wants, a strong governor who is able to appoint his own assistants in order to have a more perfect team, harmony, and cooperation and, if that governor is not allowed to remove his appointees without going through this, he's going to be burdened with him until the next meeting of the legislature. And if he does not want a department head removed, and the legislature does want him removed, they will remove him. In other words, it takes it out of the governor's hands, and it removes the strong executive system from our government altogether.

UNIDENTIFIED DELEGATE: Question?

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McLaughlin be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all those opposed by saying "no". The ayes have it and the proposed amendment is ordered adopted. Are there amendments to Section 15?

JOHNSON: I have an amendment, Mr. President.

PRESIDENT: Could the Chairman of the Committee then give an explanation of the reasons for having Section 15? Mr. McCutcheon?

MCCUTCHEON: The thinking of this Committee, and it was not a unanimous thinking, was that from past experience we felt that the authority of the senate should be diluted to a certain extent by requiring that the vetoes of the governor shall be heard in both houses and that it shall require the vote of both houses sitting as one body to override the veto of the governor, the theory being that with a small senate, it required so few

to sustain the governor, that it gave an extremely strong executive arm more power and authority than he should have. If we were to have a weak executive arm, then it appeared to the Committee or at least I should say a portion of the Committee that the governor should have strong veto powers, in as much as it was the general consensus that we were to have an article which dealt with an exceedingly strong executive branch, then authority of that branch, as it applied to legislation, should be reduced to a certain extent. You will observe that the provisions of the article require that it will take three-fourths of the membership to override the governor's veto on a budget matter; any other matter will require two-thirds of the combined houses sitting as one house.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Could I ask a question?

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

V. FISCHER: On line 1 of page 6, Mr. McCutcheon, we have a reference to an item or items in the general appropriations bill. Is it the intent of the Committee that Section 15 grant the governor to veto items in the appropriation bill without vetoing the whole bill?

MCCUTCHEON: Yes.

V. FISCHER: But not reduce amounts, just veto in entirety?

MCCUTCHEON: That's right.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Johnson to Section 15.

CHIEF CLERK: "Line 19, strike the word 'The', then insert 'Each house of the'. Strike the word 'as' at the end of line 19.

Line 20, strike the words 'one body', insert in lieu thereof the word 'separately'. Line 23, strike the words 'the state' and insert in lieu thereof the words 'each house'. Page 6, line 3, strike the words 'the state' and insert in lieu thereof the words 'each house'."

PRESIDENT EGAN: Mr. Johnson, what is your pleasure?

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

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

LONDBORG: Mr. President, I'll second the motion.

PRESIDENT EGAN: Mr. Londborg seconds the motion. The question is open for discussion. Mr. Armstrong.

ARMSTRONG: Mr. President, may I ask Mr. Johnson a question? Mr. Johnson, in question of a veto, it's an action that has been concurred in by both houses and by the senate so that actually the veto is against the joint action of the combined legislative body. Why should it not, then, be reviewed by both bodies sitting together? In other words, I'm asking for an explanation of your amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I don't agree that joint action is the same in both instances or both examples that you gave, Mr. Armstrong. Certainly a bill is acted upon by both houses but it's acted upon usually by each house separately and voted on by each house separately and then sent to the governor for his consideration. When it comes back, it seems to me that the bill should have the same treatment. In other words, his veto should be considered by each house sitting separately, since they have considered the original legislation in the same manner as in the beginning or during its passage. It is the customary way of doing things, I think; and, I believe we have set up here in this legislative act a bicameral system of legislature, and we are continually, it seems to me by joint session, invading that province and reducing one of the checks and balances that we should continue to preserve in our form of government. And when Mr. McCutcheon says that he would like to dilute the authority of the senate, I don't know of any reason why it should be diluted any more than should any other branch of our government have its authority diluted. Each branch ought to stand on its own, and certainly ought to act independently of the other, as far as that is possible; and, with this amendment, it simply puts the consideration after veto by the governor back so that it will be acted on by each house separately as was the original legislation when it was passed. I don't see that there is anything wrong with that system. Certainly, it's worked out extremely well, and I have known of instances when the house of representatives acted as a check on the senate. So I think it works both ways.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to amplify that statement as to why such matters should not be acted on in joint session. The answer is that it merely takes more time. Every time there is a joint session, the senate has to negotiate with the house, or vice versa, as to what time, for instance if the senate wants to sit with the house, the senate has to find out what time the house would be able to sit with them, and so forth. And if this matter is acted on separately, each house can act on it as it comes up in their regular order of business without any delay

whatever. In our last session I believe there were several bills vetoed by the governor; some were sustained, and some were not, but there was no joint meeting, no hassle, or delays.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I think there is another good reason for supporting this amendment. Going on the assumption that the numbers will be as we have seen them in proposals as far as your house and senate, it almost takes the overriding out of the hands of the senate, and they have to sit with the house that is twice as big. And if your house is largely leaning one way, they only have to pick up only two or three seats or voices in the senate to override. And putting it this way, it lets each house act separately. That's why we have two houses.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I might also add that under the present system a bill that is vetoed by the governor is returned to the house of origin, and, if it happens to be the senate, the bill

will go to the senate, and if they do not override the governor's veto, the bill is lost. Under this system it would go back to joint session, and, regardless of whether the senate wishes to override the governor's veto or not, it probably would be overridden since the house is going to be so much larger than the senate here.

PRESIDENT EGAN: Mr. Rosswog.

ROSWOGG: Mr. President, I'd like to move in favor of this amendment. If my figures are correct, a bill that passes the house and senate under our present setup could carry in the larger house a vote of 30 to 10 and in the smaller house of 11 to 9. And then if it was vetoed and returned to joint session, it could be still passed by the same vote.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I don't like to take up the time to talk on this, but I may state here just what my interpretation is for the reason this part of the section is in here. By one example, in the last legislature where the house by a vote, I believe, of about 21 to 3 passed an appointments bill requiring the governor to make his appointments in a certain fashion, or submit the names, and then if the names were not approved, why, he had another choice, and if he failed then, why, the house and senate would make the appointments for him, if he didn't do it in two tries. Now the house passed the bill, as I remember, about 21 to 3. It went to the senate, and the senate also passed the bill, and as near as I remember it was almost, or it was possibly two-thirds majority in the senate, but the governor vetoed the

bill, and the bill came back to the house of representatives and we passed the bill, this appointments bill, over the governor's veto, again by a vote of 21 to 3. The bill went back to the senate and failed to get the two-thirds majority, and so the governor's veto was sustained. I don't feel too strongly on this particular point. I felt a little strongly at the time when that bill I'm speaking about, but the thought behind this is that where you have that difference between the two houses, you could see where adding either 50 per cent of it or slightly over 50 per cent of the senate vote to the overwhelming house vote where it would be possible to override the governor's veto.

PRESIDENT EGAN: Mr. Riley.

RILEY: Could we have the proposed amendment read again, please.

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

(The Chief Clerk read again the proposed amendment by Mr. Johnson.)

HELLENTHAL: May I ask a question of Mr. McCutcheon?

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

HELLENTHAL: How many states have provisions for veto where both houses meet jointly, such as the proposal before us?

MCCUTCHEON: Nebraska. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

UNIDENTIFIED DELEGATE: Question.

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

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

Yeas: 25 - Armstrong, Barr, Boswell, Coghill, Cross, Gray, Harris, Hellenenthal, Johnson, Kilcher, King, Laws, Londborg, McLaughlin, Nerland, Nolan, Poulsen, Reader, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, Mr. President.

Nays: 25 - Awes, Buckalew, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hermann, Hilscher, Hinckel, Hurley, Knight, Lee, McCutcheon,

McNealy, McNees, Marston, Metcalf, Nordale,
Peratrovich, Riley, Sundborg, White, Wien.

Absent: 5 - Collins, R. Rivers, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 25 ayes, 25 nays, and 5 absent.

PRESIDENT EGAN: So the proposed amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the Convention stand adjourned until 9 o'clock tomorrow morning. If there is no objection, it is so ordered, and the Convention stands adjourned.