

## ALASKA CONSTITUTIONAL CONVENTION

January 26, 1956

SIXTY-FIFTH DAY

PRESIDENT EGAN: We have with us today Reverend Shepperd of the First Church of the Nazarene. Reverend Shepperd will give our daily invocation.

REVEREND SHEPPERD: Our Heavenly Father, we pause to give Thee grateful thanks for these men and these women, the framers of the constitution for the future State of Alaska. We thank Thee, our Father, for all their abundant labors, their selfless interests and devotion to duty they have felt and answered and especially for those aims for which they have labored, many of which have been realized as of this good day. Recognizing, O Lord, that all good government is ordained of God, we would pray Thy blessings upon this group as they come to the consummation of this great document and indeed upon the document itself, that it may find recognition among those in positions of high authority, that we may take our proper place as a sister state among those in our great republic of which we may be justly proud and for which we give Thee grateful thanks and thus we pray Thy blessings on these men and these women in the days ahead and indeed that all mankind may be vitally interested in perpetuating good government. This we pray. In the Lord's name we pray. Amen.

PRESIDENT EGAN: Thank you. The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Eight absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. The Chair would like to introduce to the delegates Marguerite Pederson who is here taking stenotype notes with no expense to the Convention and for her own pleasure. We are happy to have you with us, Mrs. Pederson. The Chair also notes in the gallery, the seventh grade of the Main School of the Fairbanks public school system. We are very happy to have you with us this afternoon and hope you enjoy the proceedings. Does the special committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: Mr. President, I would like a continuation of that report later in the day.

PRESIDENT EGAN: That report will be held until later in the day. Are there communications or petitions from outside the Convention? Are there reports of standing committees? Reports from special committees? Are there any motions or resolutions to come before the Convention? Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that the prayer by the chaplain today be spread upon the journal.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that today's prayer by the chaplain be spread upon the journal. Is there objection? Hearing no objection, it is so ordered. Is there any unfinished business? If not, we have before us Committee Proposal No. 17/a. I believe your calendar will show Committee Proposal No. 16, but that is in error. Mr. Doogan.

DOOGAN: Mr. President, I believe the first order of business is to take up the reconsideration notice as served by Mr. Harris.

PRESIDENT EGAN: Mr. Doogan, you are correct. That was set over as the first order of business.

CHIEF CLERK: That is what that is -- 17/a is the --

PRESIDENT EGAN: Is Mr. Harris here? (Mr. Harris was not present.) If there is no objection, that matter will be held in abeyance until Mr. Harris arrives. Mr. Ralph Rivers.

R. RIVERS: If 17/a is before us, I have an amendment on the clerk's desk.

PRESIDENT EGAN: Mr. Ralph Rivers, it was before us for the reason that we had decided unanimously to take Mr. Harris' reconsideration up as the first order of business. Inasmuch as Mr. Harris is not here at this time, we might hold it if it is agreeable.

R. RIVERS: What I have to offer will come up, then, when 17/a is brought back?

PRESIDENT EGAN: It will, yes, Mr. Rivers. Mr. Hilscher.

HILSCHER: Mr. President, I rise to a point of personal privilege for about 60 seconds.

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

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

PRESIDENT EGAN: Does everyone have the election district schedule before them? Mr. Hellenenthal.

HELLENTHAL: Mr. President, before the reading of the election district schedule --

DOOGAN: Point of order, Mr. President.

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

DOOGAN: If I recall correctly, we have the bill of rights before us.

PRESIDENT EGAN: Well, the way the calendar is set up at the present moment -- Mr. Davis.

DAVIS: The Style and Drafting Committee requested that this matter go ahead of finishing the bill of rights for the reason that acceptance of this report, or second reading of this report, will affect another report the Style and Drafting Committee wants to make later in the day or tomorrow.

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

HELLENTHAL: Before the reading begins, on behalf of Committee No. VI, I ask unanimous consent that the descriptions which will be read, that in the description for Election Districts 20 and 21, the word "Kuparuk" be substituted for the word "Toolik". That is K-u-p-a-r-u-k.

UNIDENTIFIED DELEGATE: Which one is that?

HELLENTHAL: In descriptions for Election Districts 20 and 21, "Kuparuk" be substituted for the word "Toolik". The word "Toolik" is T-o-o-l-i-k. In other words, strike "Toolik" in both descriptions and substitute "Kuparuk".

PRESIDENT EGAN: Mr. Walsh.

WALSH: This is on page 8 and it carries over to page 9.

HELLENTHAL: Both changes are on page 8 of the district descriptions. This change merely ties the boundary in with the tributary. The Toolik is apparently a tributary of the Kuparuk, and the designation should have been "Kuparuk". It does not alter the boundary at all. Then the next and last change is in Election District No. 2. That would be on the first page of the description, the Ketchikan Election District on the first page of the description, which is page 2 of the paper. Now here we strike the following words: "Clarence Strait and Ernest Sound". They appear in the second and third lines of the description. Strike the words "Clarence Strait and Ernest Sound" and substitute these words for them? "Burroughs Bay and the east side of Clarence Strait". I will repeat: B-u-r-r-o-u-g-h-s, "Burroughs Bay and the east side of Clarence Strait"; and then a little further on in the same section, strike the words "that area drained by Bradfield Canal and its tributaries". I will repeat: strike the words "that area drained by Bradfield Canal and its tributaries" and substitute "Lemesurier Point"; and I will spell Lemesurier. It is L-e-m-e-s-u-r-i-e-r. And this change--

UNIDENTIFIED DELEGATE: Is that Lemesurier Island?

HELLENTHAL: Lemesurier Point. Now these changes in Election District No. 2 merely make the line that was on the map conform to the actual reality. They were prompted by an observation made by Senator Nolan, checked by the Bureau of Mines people. They are no deviations from the lines that were shown on the

map that was before you when the matter was discussed. Now, in connection again with this report, there are spelling errors in the description and I ask that those errors be brought to Mr. Sundborg's attention. He has a list of most of them already, and I think that you can do it informally, rather than from the floor, to save time, and it will be checked then by Mr. Sundborg with the atlases to be sure that the spelling is correct. It will not be overlooked, in any event, so I make the following motion: that I have described here and ask unanimous consent that those changes be made.

PRESIDENT EGAN: That they become a part of the report of the Committee? Is that correct, Mr. Hellenthal?

HELLENTHAL: Yes, Mr. President.

PRESIDENT EGAN: Is there objection to that unanimous consent request? Hearing no objection, the amendments are ordered adopted to become a part of the committee proposal. Has this schedule been read? The Chief Clerk will please read the proposal for the second time.

CHIEF CLERK: The first page has been read; it is just the description.

PRESIDENT EGAN: Please read the description.

(The Chief Clerk then read Section 1 of Committee Proposal No. 14, Schedule, Election Districts, for the second time. Section 2 had been read previously.)

PRESIDENT EGAN: Are there proposed changes to Section 1 of this schedule? If not, are there proposed changes for the description, the No. 1 District? The No. 2 District? To the No. 3 District? To the No. 4 District? Mr. Stewart.

STEWART: I suggest that a check be made on page 3 at the end of line 1. I believe that must be K-r-u-z-o-f instead of -g-o-f.

PRESIDENT EGAN: Is that right, Mr. Hellenthal?

HELLENTHAL: I think it is, Mr. Stewart, and I think it is one of the points Mr. Sundborg has a note on, but I will make sure that it is checked.

PRESIDENT EGAN: Are there questions or suggested changes for No. 5? Mr. Robertson.

ROBERTSON: Mr. President, for purposes of the record, I would like to ask whether or not it is the understanding that Stephens Passage extends southward to a line drawn from Cape Fanshaw across to Pybus Bay? I have been assured by several individual delegates that it does, but it has not been my understanding of local geography.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I would like to refer that to Mr. Gray, who is far more qualified to answer that than I am.

PRESIDENT EGAN: Mr. Gray.

GRAY: Yes. Generally that is quite true. You have two sounds; you have Chatham Straits on the north and you have Frederick Sound on the bottom, and Stephens Passage is the inlet from Chatham to Frederick Sound. Now Cape Fanshaw is an actual point; you can call that a division. Now, on the other side, if you follow over there where the territory is rounded, just where is the dividing line is very hard to say, but Pyhus Bay looks to me to be more a part of Frederick Sound. Above Pyhus Bay -- Gambier bay, and so on is definitely a part of Stephens Passage. And I believe that that follows pretty much. The Pyhus Bay people are all Petersburg people, and there used to be a few farms, but I don't believe there is anybody there now. In the north, Point Retreat is definitely the break-off between Stephens Passage and Chatham Strait or Lynn Canal.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I'd like to ask another question. It says, "...including Douglas and Shelter Islands and other smaller adjacent islands". There is quite a group of islands in there, in Lynn Canal, including Cohen Island and Benjamin Island. Benjamin Island is quite a distance north of Shelter Island. The few people residing on Benjamin Island, I think, come into Juneau for trading purposes and various business purposes, but I don't know whether you would call Benjamin Island adjacent to Shelter Island or not. It is quite a distance up there. Is that the idea -- that Benjamin Island should be included with these other smaller adjacent islands?

PRESIDENT EGAN: Mr. Gray.

GRAY: When you get to Benjamin Island, it gets to be a point one way or the other. Now, actually, it is getting to be like Livengood -- which one does it belong to? We have a few -- not a few -- there probably are a great many cases where it is a question, but I am really not too concerned about the particular Benjamin Island. There is the reapportionment board, and if there are any individuals there, they can request the reapportionment board to place them in one district or the other. In general, I would say Benjamin Island falls in the other district -- the Yakutat-Icy Bay-Lynn Canal District -- that is, everything above Berners Bay. Everything below Berners Bay would fall into the Juneau district, but everything above Berners Bay would fall in the other district -- just in general.

ROBERTSON: I might say, Mr. President, I feel quite sure Benjamin Island is in the voting precinct within the Juneau recording district at the present time.

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GRAY: Could be.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. President, one other small item -- I notice Berners Bay is spelled B-u-r-n-e-r-s. It is B-e-r-n-e-r-s.

HELLENTHAL: I believe Mr. Sundborg has it on his list. Also, Mr. Sundborg, do you have a "z" in Kruzof in the description for No. 4?

SUNDBORG: Yes, Mr. Hellenenthal. it is Kruzof Island on page 3, and Berners Bay; and farther down on that page, Yakobi should be spelled with an "a" -- Y-a-k-o-b-i, the next to last line in Election District No. 6.

PRESIDENT EGAN: Mr. Lee.

LEE: May I direct a question to Mr. Gray?

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

LEE: Mr. Gray, don't you think that, perhaps, in order to avoid confusion that might arise, to put the idea of a line being drawn from Cape Fanshaw to Pyhus Bay, if you think that would encompass the area you mean here, because I know Frederick Sound has no definite boundaries, and it is going to be awfully indefinite if we leave it in this manner.

GRAY: Well, now, that can very well be done. How many people do you think it would affect?

LEE: Well, at the present time, it wouldn't affect more than four or five people, that is all, Mr. Gray. I mean, for a matter of a definite boundary, because Frederick Sound will eventually have to be identified with certain boundaries. At the present time, it isn't.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. Rosswog had a question of a technical nature as to the location of a boundary with regard to the Chitina matter. Chitina is included in District No. 8, and there is no question about that, but it is of the location of the actual boundaries, purely a geographical matter; and perhaps we could consider this when we consider Mr. Rosswog's problem. He is over now with these geographers checking on it, and I suggest that we take up that matter of the line at the same time.

PRESIDENT EGAN: Mr. Stewart.

STEWART: I have a question in regard to Section 7. Is that, on the second line, C-h-i-t-n-a? It is that way on my copy. I wonder if that shouldn't be Chitina?

HELLENTHAL: Chitina is correct, Mr. Stewart. That is my understanding of it, but the name is used in both senses on the maps. The maps are not uniform like in many other cases in Alaska with local names, but we are going to check it with whatever official designation of names and areas the geographers come up with.

PRESIDENT EGAN: Are there other questions with relation to Sections 5, or 6, or 7, or 8? Mr. Taylor?

TAYLOR: I believe the Committee should also check on the spelling of the Chokosna and the Gilahina. I think that should be Chokotna. I don't think there should be any "s". And I don't think there is any "a" in the Gilahina. It might be a typographical error, or it might be that the geography is different from the accepted spelling in that part of the country.

PRESIDENT EGAN: The Committee will look into that. Are there questions or suggested changes for No. 9? For District No. 10? Mr. Hurley.

HURLEY: Mr. President, you passed No. 9 and I was busy. May I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may ask your question Mr. Hurley.

HURLEY: Mr. Hellenthal, I looked this over the first time, and my thinking that it included the former Talkeetna, Palmer, and Wasilla recording districts, and I had some conversation with you regarding that, and you said that that was true, but that they were subject to change, but I didn't pay too much attention to it from then on out, but I notice now that there is a whole area that is excluded by this description, which would be on the area that drains into the Knik River from the north, above the highway bridge. This stops at the highway bridge and leaves it in sort of a no man's land in there. Would it be possible for me to offer an amendment at the end there and say, "and the drainage on the north side of the Knik River"?

HELLENTHAL: Yes, although I think it is included there, because we discussed that point. I did myself, Mr. Coghill, I, with Mr. Wolff and the other gentlemen, the geographers, and they said the language, "on the west side of Knik Arm", by the use of that language, "the drainage on the north and east side of the river", was definitely included in the district, in their opinion. Now, they may be in error on that.

HURLEY: Well, I would, but it says "to the highway bridge" and then it ends.

HELLENTHAL: It certainly was not the intention to exclude that area; we expressly thought it had been included. But could you go over with us again and we will look at the map?

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HURLEY: O.K.

PRESIDENT EGAN: Are there questions with relation to District No. 10? District No. 11? District No. 12? Mr. Kilcher.

KILCHER: May I address a question to Mr. Hellenthal?

PRESIDENT EGAN: You may address a question, Mr. Kilcher.

KILCHER: I am sorry that I haven't had time yet to go over with the geographers, but from my memory of the lines drawn on the maps we worked on here, I see a diversion there I don't understand. It ties in with your No. 10, the Anchorage district. You are including in the Anchorage district both sides of Turnagain Arm, the south side as well as the north side?

HELLENTHAL: Do you mean Knik Arm or Turnagain Arm?

KILCHER: The area around Turnagain Arm.

HELLENTHAL: Up to and including Placer Creek, but no farther.

KILCHER: Where is Placer Creek exactly?

HELLENTHAL: Just beyond Portage.

KILCHER: That's where it goes around?

HELLENTHAL: Yes.

KILCHER: Then, there is the Hope area; where is that included?

HELLENTHAL: It is my understanding that the Hope area is included in the Seward district.

KILCHER: It should but I don't think it is plain from the description of the Seward district.

HELLENTHAL: I asked the geographers that question pointblank, and they told me that it was included in that description, and that is all I can tell you.

KILCHER: Well, it says here, "That area of Kenai Peninsula drained by streams flowing into Cook Inlet and Turnagain Arm, from but not including the area drained by Chugach Bay..."

HELLENTHAL: Well, I suggest that you go over and raise your question with those specialists, because I am getting way out of my field here. If this language fails to accomplish what we think the intention is we certainly can correct it.

KILCHER: I think there could be some deviation, because the Kenai River flows from right behind Seward and this includes all the drainage in Cook Inlet.



HELLENTHAL: We'll go over it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe that Mr. Hellenenthal is correct there, that when we went over the Anchorage district that was also brought into consideration on the Seward district, that Hope was in that.

PRESIDENT EGAN: Are there other questions to District No. 12? Are there questions with relation to District No. 13? To District No. 14? To District No. 15? Are there questions relating to District No. 16? To District No. 17? District No. 18? District No. 19? Mr. Barr.

BARR: I promise not to mention Livengood. I notice here it mentions Clear Creek on the west side of the Tanana. Actually, there is another Clear Creek, also, farther upstream, and it is on the west side, that is, above Big Delta. It seems to me that it should be pinpointed a little more than it is here so that there will be no confusion. Of course, we are faced in Alaska with duplicate names; we have whole herds of Caribou Creeks and the like, and it seems to me it should be a little more specific.

PRESIDENT EGAN: Mr. Coghill, could you answer that?

COGHILL: I think that I will agree with Senator Barr that there are a dozen. I know of seven or eight Clear Creeks on the Tanana River itself. However, the Clear Creek that is mentioned here would not in any way be mistaken when you tie it in with the part of Goldstream that includes Nugget Creek and Spinach Creek. It is directly across from it; that Clear Creek is the one that is down here beyond the Chena Bluff.

PRESIDENT EGAN: Does that satisfy your question, Mr. Barr?

BARR: Well, not quite, no, but -- it doesn't confuse me, but it might some other people. It seems to me that if that said "Clear Creek in the Wood River area", or something like that, it would clear it up.

HELLENTHAL: Would "near Chena Bluff" solve it?

BARR: Something on that order, locate it as to the area.

COGHILL: It's the only Clear Creek that is on the --

HELLENTHAL: When we take up the other three parts, we will put some language in there so that it will be unmistakable.

PRESIDENT EGAN: Are there questions with relation to District No. 20? With relation to District No. 21? District No. 22? Are there questions relating to District No. 23? Mr. McNeese?

MCNEES: Mr. President, I think there should be a correction in spelling there -- Chamisso with a "C" instead of an "S".

PRESIDENT EGAN: Mr. Sundborg, did you get that - with a "C"? In District No. 23, Chamisso. The Convention will come to order. Are there other questions or suggestions relating to No. 23? If not, are there questions with relation to Section No. 24? Are there questions or suggestions relating to Section 2? Mr. Hellenthal.

HELLENTHAL: There will be, and they have been unanimously agreed upon at a conference between representatives of the Style and Drafting Committee and the Committee No. VI. We have already decided upon -- unanimously -- on two nonsubstantial changes and additions, purely for clarification, to make on Sections 1 and 2, which are now referred to Engrossment and Enrollment, and we shall ask unanimous consent later, when this comes out again for discussion on the floor, to make those clarifying suggestions. I merely make an observation so that we will not be considered as waiving them by not making them at this time.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Point of information. Is it necessary to refer this to Engrossment and Enrollment and have the whole thing mimeographed? Or would it be possible, under suspension of the rules, not to have it mimeographed?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I would rather not have it. I don't know what I would have to check it with, and I see very little sense in having it mimeographed; there are just a few errors in it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Could I ask Mrs. Sweeney a question through the Chair?

PRESIDENT EGAN: You may if there is no objection.

HELLENTHAL: Mrs. Sweeney, could you make a proper motion to accomplish that purpose, because I don't know how to do it.

PRESIDENT EGAN: Mrs. Sweeney, before any such motion is made, the Chair would just like to pass over the proposal until later in the day in order that Mr. Rosswog might be here. Mr. Kilcher has a question --

HELLENTHAL: Mr. Robertson, Mr. Eldor Lee, and Mr. Kilcher --

PRESIDENT EGAN: Those people who have raised questions should talk to the geographers as Mr. Hellenthal suggested to them.

HELLENTHAL: And also Mr. Barr. I think I have covered them all.

PRESIDENT EGAN: So, if there is no objection, the proposal will be held in its present position until a later time. We have before us the Style and Drafting Committee report on the legislature, the report from the Style and Drafting Committee on the amendments to the legislative article. Mr. Sundborg.

SUNDBORG: Mr. President, it occurs to me that we haven't actually made this report under the proper order of business, so I now offer the report of the Style and Drafting Committee with respect to the amendments made on the floor of the Convention last night on the article on the legislature.

PRESIDENT EGAN: Will the Chief Clerk please read the report of the Style and Drafting Committee for the first time.

(The Chief Clerk then read the report of the Style and Drafting Committee concerning the amendments to Article II, article on the legislature, which had been committed to the Style and Drafting Committee the previous day.)

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

SUNDBORG: Mr. President, we would be glad to answer any questions about the report. I think, definitely, we have made no change in substance. You will notice in -- speaking first of Section 5 -- the only thing we would change in that would be the last sentence. We haven't touched the other two sentences. The last sentence we have made it into two sentences saying, "This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention." We feel that that carries out and probably clarifies the language which, on the floor, was amended to read: "This section does not prohibit the election, appointment, or succession of any person as governor, secretary of state, or member of a constitutional convention, or the employment of anyone by a constitutional convention or election to the Congress." Now, there is one change in it which may be looked upon as substantive, and that is in the language as adopted on the floor, it speaks only of "election to the Congress", and we have said, "This section shall not prevent any person from seeking or holding the office of governor, secretary of state or member of Congress." This would permit a legislator to be appointed to Congress by the governor in event of a vacancy, if that would be the desire of the governor. I believe that was the intention of the Convention, simply taking an office in Congress, whether appointed or elected. There is one other change which we have made which we think was in line with probably, what the Convention intended. In the earlier part of the section, it says, "No legislator may be nominated, elected, or appointed..." and then, in what was added, it says, "This section does not prohibit the election,

appointment, or succession..." It doesn't cover the fact of nomination, so, as it was amended on the floor, we would feel that none of these people could be nominated to any of these offices while we have, in our redraft, it simply said that "No person may be prevented from seeking or holding the office..." which means the nominating, the filing, the election, or occupying the office.

PRESIDENT EGAN: Does any member of the Committee, the Legislative Committee, wish to ask a question or questions of the Chairman of Style and Drafting Committee? Are there any questions relating to this report? If not -- Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the report of the Style and Drafting Committee be accepted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee be accepted by the Convention. Mr. Robertson.

ROBERTSON: Is that the amendment to Section 5?

PRESIDENT EGAN: Well, the whole report, Mr. Robertson, would include the other items, too. If you have other questions with relation to the report, the Chair will not put the question. Mr. Sundborg.

SUNDBORG: We haven't suggested any other changes at all except in Section 16, and there we have simply reversed the order of appropriation bills or items on the one hand, and bills to raise revenue on the other hand. We just think it reads a little clearer to say "bills to raise revenue and appropriation bills or items" than to say it in the other order.

PRESIDENT EGAN: Is there objection to the unanimous consent request of the Chairman of the Style and Drafting Committee? Hearing no objection, then the report is ordered accepted by the Convention. Mr. Sundborg.

SUNDBORG: Mr. President, I now move that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, that it be read by title only, and be placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, be read by title only, and placed on final passage. Is there objection? Mr. Taylor.

TAYLOR: I rise to a point of information.

PRESIDENT EGAN: Your point of information, Mr. Taylor.

TAYLOR: Mr. Sundborg made a motion that the report of the

Committee be accepted. Is that equivalent, Mr. President, to adoption of the recommendations of the Committee? If not, I think the motion should have been that the report be accepted and the recommendations of the Style and Drafting Committee be adopted. We have not adopted those recommendations yet, we have accepted the report is all.

PRESIDENT EGAN: Mr. Taylor, you have a point there. When you are actually suggesting changes to your original report, Mr. Sundborg --

TAYLOR: I mentioned that for the record.

PRESIDENT EGAN: That is right. Yes, accepted and adopted as a part of the article on the legislative. Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to point out that, in that connection, the only motions, or the action, that has been taken here when the Style and Drafting Committee reports have come in, although they might have redrafted the article considerably, was that our report be accepted, and I understood that that would carry with it the adoption and the carrying into the articles of the language such as was contained in the report. My belief was that the same thing applied with respect to this supplemental report which we make, of course, only because there were some amendments made on the floor.

PRESIDENT EGAN: This was sort of an unusual circumstance in that the article was referred back to the Style and Drafting at that time in order to allow Style and Drafting to study those amendments. Isn't that true?

SUNDBORG: That is true. My intention, of course, was that the language suggested by the Style and Drafting Committee with respect to each of these amendments be adopted.

PRESIDENT EGAN: As a part of the report. Then it might be better then, under the circumstances, Mr. Sundborg, if you will withdraw your unanimous consent request for suspension at this time in order that we will be perfectly in order.

SUNDBORG: I will do that, Mr. President, and include in my earlier unanimous consent request the adoption of our suggested changes as well as acceptance of the report.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent to withdraw his request to advance the article at this time, and he now moves and asks unanimous consent that the report of the Style and Drafting Committee be accepted and adopted as a part of Article II, the article on the legislature. Is there objection? Hearing no objection, it is so ordered, and the report has become a part of the article on the legislature. Mr. Sundborg.

SUNDBORG: Mr. President, I now renew my unanimous consent request to advance the article to third reading.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, read the third time, and placed in final passage. Is there objection? Mr. McNees.

MCNEES: I don't want to object, but, for the sake of the record, I am going to point out that, in spite of a six-and-a-half hour argument that took place on the floor here one day with a vote finally being taken relative to the two houses meeting in joint session on four different items in the legislative article, that only once has that been retained in the final draft. I will admit that the referendum article was removed from the legislative article, so that would be one, leaving three other places in the legislative article where that was mentioned, and the retention has been made only in the case of the veto by the governor.

SUNDBORG: Mr. President, we absolutely deny that we have changed in any respect, or left out or altered the manner in which the legislature should act in considering anything.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to ask Mr. McNees a question.

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

V. FISCHER: Mr. McNees, would you please point out where the Style and Drafting Committee has omitted a reference to any action taken jointly by the two houses.

MCNEES: That was not my accusation, Mr. Fischer.

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

#### RECESS

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

SUNDBORG: Mr. President, in view of the statement made by Mr. McNees, I took occasion during the recess to get from the stenotypist, and also listened on the recorder as to just what it was that Mr. McNees said, and what he said was that "...for the sake of the record, I am going to point out that, in spite of a six-and-a-half hour argument that took place on the floor here one day with a vote finally being taken relative to the two houses meeting in joint session on four different items in the legislative article, that only once has that been retained in the final draft. I will admit that the referendum article was removed from the legislative article, so that would be one, leaving three other places in the legislative article where that was mentioned and the retention has been made only in the

case of the veto by the governor." Now, my statement to Mr. McNees is that I believe that it is a misstatement that he made. I wonder if he would try to show us exactly what were the two that we left out.

MCNEES: I don't think I said, in any case, Mr. Sundborg, that Style and Drafting did leave it out, did I?

SUNDBORG: Well, certainly that was the inference which I took from it. If you weren't saying that we did, were you accusing some other committee of leaving something out?

MCNEES: No. I was drawing a point there that where in a debate on the floor it was definitely decided here that in these four instances that the joint session was to apply, and I was drawing attention also to the floor now that, in spite of time spent on that and the final decision of the floor, in the final legislative article that that has not been retained.

SUNDBORG: Mr. McNees, did you mean to say that we had decided on the floor in those four instances to retain it?

MCNEES: I thought very definitely, and in fact I am convinced that that was the decision of the floor that day.

SUNDBORG: Do you find those places which you say are now missing in your enrolled copy?

MCNEES: No, I do not.

SUNDBORG: Then it must have been something that happened, if it did happen, before it ever reached Style and Drafting.

MCNEES: As I said, Mr. Sundborg, again, I was not pointing my finger at Style and Drafting. I was calling attention to a point in fact.

SUNDBORG: I wonder if Mr. McNees could be entirely mistaken and that there were not four places that the Convention approved where that procedure was followed, but maybe they were discussed and the amendment was rejected. You are either saying that the Engrossment and Enrollment Committee has left something out, or that we have, and I want to know which, because I don't want to have that hanging over our heads because --

MCNEES: It is merely a matter of a change of language but I do recall here very definitely one day, and I have pinned it down to the 39th or 40th journal by number. That is not the 39th and 40th days, however, that is the journal number, where this debate took place, and it will take me some time to follow through on it, but I would like to discuss this further with you, but I see no reason to hold up the proceedings on the floor at the present time. Certainly my quarrel was not with Style and Drafting on this particular item though.

SUNDBORG: I appreciate that, but if it is with anybody and we are leaving out something here --

MCNEES: Nor is it with Engrossment and Enrollment.

SUNDBORG: -- on which action was taken on the floor, it certainly ought to go back in before we adopt this article.

PRESIDENT EGAN: Mrs. Fischer.

H. FISCHER: Mr. President, for the record, I think if Mr. McNees will look under the executive article, he will find those places under which meeting in joint session are mentioned.

MCNEES: I am very much aware of the one that is retained in the legislative article; also the one that is in the executive article, Mrs. Fischer.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, read the third time, and placed in final passage. Is there objection? Hearing no objection, the rules have been suspended, and Article II, the article on the legislature, is now before us in third reading and open for debate. The Chief Clerk will read the article by its title. Included in the motion by Mr. Sundborg was that the article be read by title only in its third reading. The Chief Clerk will read the article by its title only.

CHIEF CLERK: "Article II. The Legislature."

PRESIDENT EGAN: Mr. Cooper.

COOPER: I have no complaint. I just merely want it clarified on the floor that, in Section 16, upon receipt of a veto message, the legislature shall meet immediately, and I would like to have the word "immediately" clarified so at a future date it will be clear to both parties -- the governor and the legislature -- as to just exactly what "immediately" means.

PRESIDENT EGAN: Is there debate on that question, or is there clarification at this time on the meaning of the word "immediately"? Mr. Taylor.

TAYLOR: Mr. President, I have no doubt but that the legislature in implementing this article will spell out what the word "immediately" means. It will be "as soon as possible".

PRESIDENT EGAN: Is there debate on this article? Mr. Robertson.

ROBERTSON: Mr. President, I am constrained to vote against this article. Not that I don't respect the wonderful work that the Legislative Committee and also the Style and Drafting Committee have done on it, but I still believe, as I have said before on the floor, that you are adopting a system of having



the senatorial representation based entirely upon geography instead of partly upon geography and partly upon population; it is a departure from the bicameral system.

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

BARR: Mr. President, I imagine that I will vote for every article that comes before us even if I don't agree with certain provisions within it, except this legislative article. I cannot in good conscience vote for it because the things that I disagree with are, in my mind, very serious. In the first place, I think we can get along with a smaller legislature at the present time, and when we become a new state, I believe we should operate very economically for the first few years. Not only that, but a smaller legislature makes for more efficiency. We can see here on this floor that it takes a long time to get a few amendments through. If we have a house of 40 members in the legislature, and a bill comes up, and 40 people each have amendments, and each of the 40 wants to debate on each amendment or put amendments to the amendment in, it might go on for days. A smaller number, of course, would promote efficiency. Now, I do agree we would have to have a little larger house than we have now to have proper apportionment. I disagree on adopting a unicameral process in acting on a veto when a bill is returned by the governor. We have gone on record here for a bicameral legislature by a large majority, and then we become inconsistent and turn right around and provided for the unicameral process in acting on a veto. I disapprove of that. Then, with 40 members in the house and 20 in the senate, when they act on a veto -- of course, the house can override anything that the senate wants to do. In other words, if a senate bill is being reconsidered, the senate might have no say in it. I believe that if a bill is originally considered in one house, they should also be able to reconsider it, and not turn it over to a joint session, and in the case of a senate bill, the senate would be left out in the cold; the house has full control. I also agree with Mr. Robertson in what he says. I believe these things are so serious that I just cannot vote for this article. On other articles, where they are not so serious, I will vote for them, of course.

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

SWEENEY: Mr. President, I, too, would like to say that I cannot vote for this article for the reasons stated, and also because of the changes in the impeachment process. I feel that the process should be as before, the proceeding brought in the house and the hearing in the senate, and this has been reversed in this bill. So, for that reason, and for reasons of the change in the veto process in joint sessions, I cannot vote for this bill.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I voted against the judicial bill and I

voted against the initiative bill and I will probably vote against other bills possibly that are offered on the floor in third reading but I am going to cast my vote, for what it is worth, for the legislative bill. I think it is an excellent piece of work and will make us proud that we have this in our constitution.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I am dissatisfied with a couple of matters in this proposal -- article. One is the method of impeachment. I am against that method of impeachment in which the charges are made by the senate and it is tried by the house, but the majority voted for the inclusion of that. The majority also voted to override a veto that both houses would meet in joint session and vote to sustain or override the veto. That has been adopted by an overwhelming majority. Mr. Barr didn't point out to the members, though, that that vote by the joint session of the house and senate must be by a three-fourths majority, where ordinarily a two-thirds majority was sufficient to override the veto. I am going along with the will of this body who has adopted into this article those matters that I was not in favor of, because, if you vote against the article, you are voting against the constitution.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that the democratic process involves the consolidation of the opinions of many. Now, I also have some feelings in regard to various articles of this bill. We have adopted them, and by a majority of the thinking vote of this body, and I think it represents the best judgment of this body collectively. If you recall, I tried to amend the term of the members of the house to four years. My thought was that they would have greater continuity and the value and benefit of greater experience in the house. The argument in reply to that was that the house elected by itself every two years would be more responsive to the will of the people. The question there was: did they desire immediate responsiveness, or did they desire experience and continuity of policy. The body here decided to accept immediate responsiveness. Now, there are other items. I, for one, would have preferred to see additionally, four senators at large to balance off some of the geographical discrepancies, perhaps. But those things are all things that I feel have been resolved by the majority will of this body; those are all things that come out of the democratic process. No one of us can have his own way entirely in any or all of the articles which we adopt. Therefore, it is my opinion that we have here before us an entirely and completely workable and, I think, a very effective legislative proposal. I, for one, intend to vote for it.

PRESIDENT EGAN: Mr. Johnson had been attempting to get the floor. Mr. Johnson.

JOHNSON: Mr. President, I am not going to say very much. At the outset, let me assure the delegates that I intend to vote for the article. However, I am keenly disappointed, and was at the time that it happened, that the veto procedure was changed from the traditional two-house method to the method of using a joint session of the legislature. I have always felt that when the veto message was acted upon by each house separately, as I believe it should be, that it afforded an additional check and balance that very frequently was the only protection that a minority could have in a legislature which was over-balanced, one way or another, by one political party or the other. Now, I understand fully the reason why many members in this assembly desire to dilute the strength of the senate, and it stems from experience that they had in the last session of the legislature, but I daresay the time will come when they will be in the position of being in the minority and they will have lost, then, the chance of stemming the override of a veto in one house when they could not do it in a joint session. And it seems to me that that one little deviation from the traditional method of operation could well spell difficulty for those who some day may be in the minority, as some of us have found ourselves on many occasions. Now, Mr. Victor Rivers says that no one of us can have his way all the time. I certainly agree with that, and, from experience, I can say that I probably have had my way less in this Constitutional Convention than all the rest of the delegates put together. But I believe that we are here to write the best constitution possible, and I think the legislative article, by and large, is a fine piece of work, but, and I am not complimenting Style and Drafting Committee of which I am a member, but I think the principal work was done by Mr. McCutcheon's committee. But I still feel that we have set up a rather paradoxical situation which may someday be to our regret, although we do have, or will have, methods of correcting that by way of amendment. Otherwise, I certainly feel that the article is good and sound and American, and I support it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I move the previous question Mr. President, and ask unanimous consent.

PRESIDENT EGAN: Mr. Buckalew moves the previous question and asks unanimous consent. Is there objection.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Taylor that the previous question be ordered. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question --

COOPER: 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, Collins, Cross, Emberg, V. Fischer, Gray, Hilscher, Hinckel, Kilcher, Lee, McCutcheon, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Taylor.

Nays: 29 - Armstrong, Boswell, Cooper, Davis, H. Fischer, Hellenthal, Hermann, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Nolan, Nordale, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 5 - Coghill, Doogan, Harris, McLaughlin, Riley.)

CHIEF CLERK: 21 yeas, 29 nays and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the previous question has not been ordered. Mr. Cooper.

COOPER: I ask for a five-minute recess.

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

#### RECESS

PRESIDENT EGAN: The Convention will come to order. Is there further debate on Article II, the article on the legislature? Mr. Smith.

SMITH: Mr. President, may I address a question to Mr. Robertson through the Chair?

PRESIDENT EGAN: If there is no objection, Mr. Smith, you may direct a question to Mr. Robertson.

SMITH: Mr. Robertson, do you believe that if this body rejected this article at this time, that a better article could be prepared in the time left to us?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I don't anticipate that my one vote is going to beat this article. I imagine it is going to be overwhelmingly accepted. But I maintain that I have the right, on any item that comes up for final passage if I don't agree with the theory of it, that I have the right to vote against it. I don't think possibly this body would have the time to redraw a new article, Mr. Smith.

SMITH: Thank you, Mr. Robertson.

PRESIDENT EGAN: Is there further -- Mr. Nolan.

NOLAN: Mr. President, while I agree that probably 75 per cent of the article is as well written a one as could probably be produced, I intend to vote against the article mainly on the provisions pertaining to the veto, impeachment, and the yearly sessions. The yearly sessions are one that bother me particularly, due to the fact that I think a lot of good people in the Territory that would probably run for the legislature will not under those conditions just simply between campaigning and then their terms down there without any limitation upon them at all would take away a lot of good people from the legislative halls.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: That last remark of Mr. Nolan voices my sentiments on it. I think what we are doing here, we are setting up a legislature that is going to be only for professional legislators. We are going to preclude the possibility that a lot of good men that have businesses and other interests whereby they make their living from ever running for the legislature. Because of the yearly sessions and the fact that there is no end of the session, a man filing for office isn't going to know how many days he is going to be away from home. Not just one year, but two years in a row -- every year. I think that alone is enough to cause opposition to this article. Outside of that I am perfectly reconciled to go by what has been said, by the wishes of the majority.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have been interested in that in the last two reasons given -- about people hesitating to run. I raised that when the thing was considered. But it seemed that, outside of the first two or three years when we would really be busy getting the state organized, that it would pretty well level off to about 60 days a year. We now have 60 days every two years. I believe that after a few years have gone by -- and we're writing this for the long pull -- that that timing will fairly well work itself out.

PRESIDENT EGAN: The question is, "Shall Article II, the article on the legislature, be adopted as a part of the Alaska state constitution?" The Chief Clerk will call the roll.

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

Yeas: 46 - Armstrong, Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, R. Rivers,

V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 6 - Barr, Londborg, Nolan, Reader, Robertson, Sweeney.

Absent: 3 - Coghill, McLaughlin, Riley.)

CHIEF CLERK: 46 yeas, 6 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it, and the article on the legislature has become a part of the Alaska state constitution. Mr. Hellenthal.

HELLENTHAL: Mr. President, I move that the rules be amended to provide that remarks on third reading in the nature of explanations of votes be confined to one minute, or, in the alternative, that each delegate be given an opportunity to present a written statement to become a part of the permanent record if they have objections.

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

KILCHER: I second it.

PRESIDENT EGAN: Seconded by Mr. Kilcher. Would the Chief Clerk please read the proposed motion. Mr. Barr.

BARR: Is that an alternative, submitting a written record? It wouldn't be on the tape then, I understand?

PRESIDENT EGAN: Under the manner in which Mr. Hellenthal stated the motion, Mr. Barr, it would not be on the tape, no. Mr. Johnson.

JOHNSON: Point of order, Mr. President.

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

JOHNSON: Is such a motion in order at this time?

PRESIDENT EGAN: Such a motion would be in order. It would take a two-thirds vote, Mr. Johnson, to carry the amendment to the rules. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: Mr. Hellenthal moves that the rules be suspended, and that, in third reading, in explanation of the vote, the delegates be confined to one minute (each), and that, in the alternative, they be given the opportunity to present a written statement which will become part of the written record.

PRESIDENT EGAN: Mr. Hellenthal, didn't you move that the rules be amended?

HELLENTHAL: Yes.

PRESIDENT EGAN: Instead of suspended.

NOLAN: Does that include debate? In other words, you would limit debate to one minute?

HELLENTHAL: No. I limit it to explanatory statements of their vote.

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

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

HELLENTHAL: With the consent of the second, I should like to withdraw the motion.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the motion be withdrawn. With the consent of the second, the motion is ordered withdrawn. We now have before us Article I, the article on the preamble and declaration of rights, the report on amendments. Mr. Davis.

DAVIS: Mr. Chairman, last night, at my request, the Convention suspended the rules and authorized Style and Drafting to redraft Section 18. That has been partially done. A proposed draft has been shown to a good many of the delegates but it is not ready at this time. Accordingly, I would like to suggest that we consider, since we already have suspended the rules in that respect, consider the article without that section, and then we will present that at a later date when it is ready.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that we consider the article on the preamble and declaration of rights without the consideration of Section 18 at this time. Is there objection? It would mean, Mr. Davis, that we would have to hold up the article in any event, would it not? Perhaps would it be better if we just passed the article until you have Section 18 ready for consideration?

DAVIS: My thought was, Mr. President, that the article -- this particular article -- was to be reworked without reference to substantive matter. That is what I thought we adopted last night, and, therefore, I thought we could actually pass that article at this time and Style and Drafting could put in the article as finally written.

PRESIDENT EGAN: You mean after its final adoption into the constitution?

DAVIS: Well, after the amendment process, at any rate. It

may very well be that we will have that ready by the time we reach Section 18. I don't know. We have a draft now but I think it should properly be written and mimeographed so the delegates could see it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it seems to me that last evening, that the first order of business this morning was the reconsideration of Mr. Harris' vote.

PRESIDENT EGAN: That is right. We held that in abeyance pending the arrival of Mr. Harris. Mr. Harris.

HARRIS: Mr. President, I finally made it, and I will be glad to have it taken up at this time.

PRESIDENT EGAN: We have, then, before us at this time -- was there objection to Mr. Davis' request with relation to holding Section 18? If there was no objection it will be so ordered, but, at this time, we will revert to the consideration of Mr. Harris' reconsideration. Mr. Harris, what is your pleasure?

HARRIS: Mr. President, at the time the vote was taken on this particular section, there was quite a bit of discussion of whether the words were surplus, whether they were needed, or if the intent of the article would be the same regardless of whether the words "as otherwise provided by law" -- I believe that's the way it read, you can correct me if I'm wrong -- were needed or not. I believe Mr. McNees stated at the time that the intent of the article was that it was a transitional ordinance, and that it could be moved "as provided by law," either initiative or referendum, or by some process through the legislature. Since that time I have talked to some other of our legal brethren, and they have informed me that there is a good possibility that, if the article goes in as it is now written, there is a possibility that the people could not move the capital of Alaska without making a specific amendment to the constitution. I am not particularly interested in seeing the capital moved in the next 10 years or 15 years or 20 years, but I am interested in the fact that, if the time should arise in the future when the people of Alaska would like to have --

PRESIDENT EGAN: Mr. Harris, the Chair does not wish to interrupt but have you moved the reconsideration?

HARRIS: If I didn't, I do now. I am sorry.

PRESIDENT EGAN: Mr. Harris moves the reconsideration of his vote on Mr. Kilcher's amendment, Section 2 of Proposal No. 17/a.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. Mr. Harris, you may proceed.



HARRIS: Mr. President, I am not going to take up a lot of time with it. Mr. McNealy has stated the intent of the article, and, if that is the intent of the article, I can see where no one would have any objection to adding these three words for a matter of clarification. There seems to be a difference of opinion between our legal staff here as to whether the intent would be the same with or without the words; therefore, I am heartily in favor of adding these three words to the constitution. I don't think they make too much difference in the long run.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, of course this is just my own opinion on the location of the capital. I would prefer myself that it be in the body of the constitution and that is it. But in order to allay the thoughts of any of the members that might be in disagreement with the Committee on this, I know the Committee is right and, knowing that the Committee is right, certainly no harm can be done by adding the words which are suggested in this amendment, because it will mean exactly the same then as it does now in this particular place where it is located in the ordinances. So I think I speak for at least the majority of the Committee that we certainly would have no objections to those words being added.

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

CHIEF CLERK: "Proposal 17/a, Section 2, line 2, change the period to a comma and add 'unless decided otherwise by law'."

PRESIDENT EGAN: Mr. Stewart.

STEWART: As one member of this Committee, I wish to go on record as saying that I was not in favor of those words. I was in favor of putting the section just as it is worded here in the body of the constitution; no additional words; no provision for a referendum. I think there should be compelling reasons why a move of this kind should be undertaken. They must be compelling because of the disruption that would occur by reason of any such intent. The capital has been at Juneau for 50 years or thereabouts. There has been no difficulty with regard to having it as the capital; it has served well. I urge all of you to consider very, very carefully any move that will bring about an uncertainty as to where the capital is during the next five, ten, or fifteen years, and I would prefer very much myself to see it in the body of the constitution. The constitution can be amended; there are provisions for that. If, over a period of years during which the state is being formed and we are going through the initial stages, there is no reason why the constitution can't be changed after a period of years if it is shown and shown conclusively and compellingly that there is a very good reason which offsets those against it.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I think I am also talking for our Committee on Ordinances, and in our Committee on Ordinances, we have given this question a lot of consideration, and I think there, also, we have reached a compromise between the stand that Mr. Stewart now has so ably expressed, and between a whole variety of positions whereby the capital at Juneau right now might be put some other place, or whereby the capital at Juneau, the capital of Alaska, should be decided in a referendum immediately upon attainment of statehood, and a whole variety of intermediate positions were taken. This Section 2 here was accepted as a committee compromise with a majority intent clearly expressed that the capital should be in Juneau, but this statement should not be embodied in the constitution itself. It should be as an ordinance to make it amendable by law. That was clearly the intent, but this little amendment of mine here is only serving the purpose of making that intent clear beyond any doubt. There have been opposing views as to whether the intent of the Committee compromise is clearly worded, and, in order to erase any possible doubt in the minds of the delegates here and in the minds of future Alaskans, I have introduced this little amendment to implement or more clearly express the Committee's intent on this compromise. In other words, what it boils down to is this, fellow delegates, do you want to see the capital site question embedded in the body of the constitution, including this here Section 2 as it is, do you want to possibly interpret it that it is embedded in the body of the constitution and not amendable by legislative action, or do you agree that possibly we should leave the capital in Juneau as it says here, subject to law? I think this little amendment would clear the air. It is a simple question. Shall the legislature have something to say about it or not? I think it should.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I believe that, as sincere as Mr. Kilcher is, that he has drawn a wrong assumption in saying that in voting against this inclusion in the article would be freezing this into the body of the constitution.

KILCHER: Point of order, Mr. President. I have not made such a statement, Mr. President. I said there is serious doubt as to whether it might or might not, and I have advocated to erase the doubt.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I am sorry I can't take back what I said, but I think the assumption is correct. Mr. President, I certainly don't pose as one who knows all the problems of Alaska, but I have traveled greatly and I have had all of Alaska on my heart. I have lived in Fairbanks, I have lived in Anchorage. The embarrassing point of living in these different cities is that

people will come occasionally and say, "Which town do you like best?". It is not a fair question, it is a natural question. I have heard of divisions of people pulling things from Anchorage to Juneau; things from Juneau to Anchorage, and to Fairbanks. And all of the time, I have tried to say that many of these tensions and provincialisms are not pressure groups. It isn't a case of robbing one place to satisfy the economic needs of another, but I think I can fairly estimate in my own heart that we do a grave injustice at this stage of our Constitutional Convention to include this intimation at this time which I think is rather unfair. I think that Mr. Stewart is correct that this constitution can be amended at periodic intervals.

KILCHER: Mr. President, point of order. Is Mr. Armstrong debating from the assumption that Section 2 as it is will freeze the capital in Juneau, or is he debating as to the necessity of the amendment to clarify the intent of the Committee?

PRESIDENT EGAN: Mr. Kilcher, we will have to wait and see --

ARMSTRONG. Mr. President, I would make it very clear at this time that I will vote to retain the language in the original article as proposed by the Committee, and I ask you with clear heads to think what this means clear on through in our life as a Territory, to vote for the retention of the language as originally proposed by the Committee. Thank you.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, we'll all admit that we think that the legal implication of putting "The capital shall be at Juneau" in the ordinance in the schedule is that it is a temporary measure. In other words, it can be changed by the legislature or by the initiative or referendum or however you want to state it. I think in all fairness to the people of Alaska we should spell it out because the average man is not going to know whether that is permanent or whether it is transitory in the sense that it can be reached by the legislature or by initiative. If it means that, I think we ought to write it in there so that everybody that reads the constitution will know exactly what the Committee meant. I don't see that it will do any harm, and I think that it might help the judge or the court if it ever comes down to judicial determination. I will agree with Mr. McNealy; I think he is probably absolutely right. But I still think that there is room for doubt, but I think the main reason that we should include this language is that I think, in fairness to the people of Alaska, we ought to spell out exactly what we are doing on an issue of this nature.

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

ROBERTSON: I would like to remind the delegates that you already have the initiative and referendum, and, no matter whether Mr. McNealy's theory of the law is correct or incorrect, under the initiative and referendum, if any demand or need develops

for the changing of the capital, the people themselves, by initiative, can call the constitutional convention and change it. So, it doesn't even have to wait ten years, which is a very short time, and it seems to me we ought to retain the language as reported by the Committee.

KILCHER: Point of order.

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

KILCHER: A point of rather correction. I think that Mr. Robertson is mistaken. There was an amendment that would have made the initiative operative for constitutional amendment or for calling --

PRESIDENT EGAN: Mr. Kilcher, Mr. Robertson is entitled to express his opinion, and it does not involve a point of order. Mr. White.

WHITE: Mr. President, I can well understand and sympathize with the views of those who feel the capital should be where it is now period. But I have been in serious doubt in listening to the debate in the two occasions it has taken place as to whether it is clear under the current Section 2 that the capital could be changed by law, and I think that, if any doubt exists, that those who wish to so provide should vote for this simple amendment. In reading my Juneau Independent today, I notice that it says, "Juneau as the capital of the State of Alaska, with no ifs, ands, or buts. The constitution would say, if the Ordinance Committee recommendation is followed, that the capital is established at Juneau," -- skipping a few words, "with no modification except by the process of constitutional amendment." Now, if it is possible for us to misunderstand each other here as to the intent or the meaning of a certain section in a certain article and some words are found desirable to clarify it, I think, if we are in favor of the clarification, we would be well-advised to adopt those words.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Could I ask Mr. Robertson a question?

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

HELLENTHAL: Mr. Robertson, in legal or constitutional effect, do you see any difference between the language of Section 2 in Proposal 17/a, namely, "The capital of the State of Alaska shall be at Juneau," and in the language in the proposed amendment, "The capital of the State of Alaska shall be at Juneau until otherwise provided by law."?

ROBERTSON: Yes, I do, Mr. President. You immediately, by adding those words, you immediately develop the uncertainty that

the very first legislature, and, after all, you must realize that we are heavily outvoted by the proposed legislature we have just set out, they could immediately change it without any necessity whatsoever existing therefor. I think it is to the people themselves when you leave the language as it is, to leave it plain and certain, except for what Mr. McNealy's examination of the legal decision has on the effect. This immediately says that the very first legislature might change the capital. There is no stability; there is no certainty whatsoever to the proposition when you add those words.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask Mr. Robertson a question. Do you think then that leaving them without those words does leave a doubt as to whether or not the legislature or other methods of law could act? Is that right?

ROBERTSON: I will answer that by saying that. I have not investigated this section as Mr. McNealy has as to the legal effect of having it in a measure that is termed a transitional measure as having it in effect in some other measure, but it seems to me that, in answer to Mr. Victor Rivers' question as I already have, that the initiative and referendum specifically authorizes the people by constitutional amendment to change this any time they want to call a convention, and you are bound under that initiative and referendum, if I remember correctly, to have a constitutional convention every ten years.

V. RIVERS: Another question, Mr. President. You keep referring to the initiative and referendum only for the purpose of calling a constitutional convention, not for actually amending the constitution, is that right? I understand that our initiative does not extend to amendments directly to the constitution.

ROBERTSON: No. That is true.

V. RIVERS: Your position is that, if we were to amend this out of ordinances, you would have to call a constitutional convention to amend it that way?

ROBERTSON: That is my understanding.

V. RIVERS: That is your interpretation?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, on the question of law, today, I ask the permission of the floor on a point of personal privilege.

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

(Mr. McNealy spoke under a point of personal privilege.)

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to ask Mr. McNealy what the effect is of the preamble that appears as shown on Committee Proposal No. 17/b, which would relate to Section 2, that has been under discussion here, and I am asking that question because he made some very pertinent remarks which may very well be the basis of many votes, and those remarks weren't on the record as he was speaking as a matter of personal privilege, and I would like to have him repeat for informational purposes, in brief, what that statement was. What would be the effect of the preamble on this section as discussed?

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you may answer the question.

McNEALY: As I had stated, it is almost a unanimity of opinion and decisions of the courts in regard to ordinances and whether they are permanent or whether they are merely transitory in nature that, where these words are used in the preambles of the ordinances, the courts refer back to those stating that the only purpose of the ordinance then is merely the direction of an orderly transfer of a territorial to a state form of government, and it is merely the transitional period and, strictly speaking, what it means with the capital in here, and with the wording we have in the preamble to the section here, it means that the capital has been orderly transferred from the Territory to the state. And, in conclusion, I will state again that as soon as the state government comes into effect, the entire schedule that will be offered by the Ordinances Committee will drop away from the Constitution and no longer be a part of it.

V. FISCHER: Then once the transition has taken place, Mr. McNealy, the initiative provisions would apply as well as the authority of the legislature to amending the location?

McNEALY: Mr President. That is correct, Mr. Fischer.

V. FISCHER: Thank you.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think we are making a mountain out of a molehill here. It makes absolutely no difference whether we leave the words in or whether we leave it as the Committee brought it in or put the words in as suggested by the amendment. Now we must not lose sight of the fact that when we adopt any particular article of this constitution or any particular section of any article, we are not casting it in a mold from which it cannot be taken. Everything that we do here is not bound to be that same until

eternity, because we cannot bind future legislatures, nor can we bind the people not to do something in regard to changing it. So, regardless of the fact of whether or not we adopt this amendment, if we put the capital to be at Juneau, it doesn't mean it is there forever, because it can be changed by law when the people want it to change. It is only natural that this Committee, which I think did the right thing in drawing it in its present form, should be left there, because we have to have in our transitory provisions some designation of where the capital is going to be until the people by a referendum at some future date want to amend the constitution and name a place where the capital is going to be permanently located. So, regardless of whether we adopt the amendment or not, I think it makes no difference. I think we have just wasted a lot of time here, because those words are implied in the article itself, regardless of whether they are there, so what difference does it make whether we have the amendment or not? Leave it just at Juneau because it is going to be there anyway.

PRESIDENT EGAN: Are you closing the argument now, Mr. Harris?

HARRIS: Yes.

PRESIDENT EGAN: Mr. Harris, you may close the argument. Mr. Kilcher.

KILCHER: Point of order, or rather a point of information. I went through the article on referendum and initiative, etc., and I didn't find any indication that the people, by the initiative, could call a constitutional convention. This is not the case; the people cannot call a constitutional convention. It is only the legislature by two-thirds vote or then it be automatic by referendum every ten years. Those are the only two ways to call a constitutional convention.

PRESIDENT EGAN: Mr. Harris has the floor.

HARRIS: I don't want to belabor this point or take up any more convention time. The only reason that I reconsidered my vote was that the type of discussion that we have had here today was the fact that many of us here disagree on whether it is the intent that it can be changed by law, or it cannot be changed by law; whether it takes a constitutional amendment, or whether it doesn't. I would like to have it clearly defined in our constitution whether this capital site shall be frozen, or whether it shall be subject to the people to change by initiative or referendum or by the legislature. That was the only intent that I had in making my reconsideration of Mr. Kilcher's amendment. If there is any further doubt in your mind whether this can be changed by law, then I would urge you to vote for the amendment. I hate to have anything hazy or not clearly defined that could bring up an argument, could bring up a lawsuit, could bring up

a lot of things in the future. Let's have it one way or the other. If we are going to be able to change it by law, let's state it so that everybody can understand. I don't want to see the newspapers -- as Mr. White has already told us, one paper came out and says it cannot be changed. I have seen another press release from an Anchorage paper that says if it goes in the way it is, the people can change it anytime. The newspapers don't agree; we don't agree. Let's have it one way or the other -- make it a clearly defined statement. The Committee says the intent is that it can be changed by law. Therefore if that is the intent, I see no reason why there should be any objection to the words we are adding.

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

CHIEF CLERK: "Section 2, line 2, change the period to a comma and add 'unless decided otherwise by law'."

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

V. RIVERS: Roll call.

SWEENEY: Just a matter of information. Now in order to leave it the way it stands here, we should vote "no"? Is that right?

PRESIDENT EGAN: That is right, Mrs. Sweeney, we are voting again on the proposed amendment of Mr. Kilcher. The Chief Clerk will call the roll on the proposed amendment as offered by Mr. Kilcher.

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

Yeas: 16 - Buckalew, Cross, H. Fischer, Harris, Hurley, Kilcher, Londborg, McCutcheon, McNees, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, White, Mr. President.

Nays: 38 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Nerland, Nolan, Nordale, Peratrovich, Riley, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, and Wien.

Absent: 1 - McLaughlin.)

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

PRESIDENT EGAN: Mr. Londborg changes his vote to "yes".



3200

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

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

JOHNSON: I move that the Convention stand at recess for 20 minutes.

PRESIDENT EGAN: Are there committee announcements?

AWES: Meeting of the Bill of Rights Committee immediately upon recess.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENENTHAL: Committee No. VI will meet upstairs immediately following recess.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, could I ask you through the Chair, if there is no objection, if there is to be a meeting of the Executive Committee?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We are going to have a meeting of the Executive Committee but I don't think we have time to cover it in this period of time.

PRESIDENT EGAN: Are there other committee announcements? If not, the Convention is at recess until 4:15 p.m.

RECESS

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

R. RIVERS: Mr. President, now that we are on Committee Proposal No. 17/a, specifically Section 2, I move the adoption of an amendment to Section 2 which is on the Clerk's desk.

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

CHIEF CLERK: "Section 2. Strike the section and substitute the following: 'Unless otherwise determined as hereinafter set forth, the capital of the State of Alaska shall be at Juneau. Within 5 years from the admittance of Alaska as a State of the Union, the legislature shall establish a capital site survey commission to study the merits and demerits of potentially suitable sites for the permanent capital in line with the best

interests of the people of the whole state. Upon completion of its studies, the commission shall report to the legislature and to the public. The legislature shall then provide for a referendum by the people at a statewide election or series of statewide elimination elections until a majority of the voters voting on the proposition have concurred on a particular site, after which the seat of government shall be retained at Juneau or changed as rapidly as feasible to the new site, as the case may be."

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

POULSEN: I second it.

PRESIDENT EGAN: Mr. Poulsen seconds the motion.

SUNDBORG: Point of order. Is this really before us according to the calendar?

PRESIDENT EGAN: Mr. Sundborg, as you will recall, the first thing on the calendar was the pending reconsideration of Mr. Harris' notice of reconsideration; he was not here. We held that over and then, after he arrived, we proceeded with that matter. The moment that is done it places the proposal before us in exactly the same position it had prior to the time that the reconsideration motion was made.

SUNDBORG: In other words, even though the calendar says that the only thing in this order of business is the reconsideration, it brings the whole matter back?

PRESIDENT EGAN: It does bring the matter back. Mr. Ralph Rivers.

R. RIVERS: In that case, 17/a is before us and we are now dealing with Section 2. You have heard this read. The purpose of this amendment is to spell out an orderly procedure for the expression by the state over a period of years as to the site of a permanent capital. Mr. Robertson expressed the fear this morning that, if it were left up just to the legislature, that you did not know what the first legislature could do or would do. Just the legislature can change the capital, or the capital can be changed by law; that is the position we are in right now. The Chairman of the Committee said that to put the specification that "Juneau shall be the capital" in the transitory provisions merely says that, to avoid inconvenience during the transition period, the capital shall be at Juneau; that leaves it wide open for the legislature or other ways of enacting laws to go into effect. Our not putting those words in this afternoon doesn't change that situation. It now reads "unless changed by law". Well, this would give something definite and specific; it would

refer it to the whole people in the entire state on a fair basis without our making up their minds. It would outline a framework for the legislature to follow. If there are only two really outstanding sites, then you could have one referendum, say between Juneau and one other place, but if there were three or four suitable sites, that would be before the consideration of the people. Then you could have some elimination elections. They would set up a capital site commission to study such things as the land conditions, transportation facilities, weather. When I mean land conditions, I mean foundations, water supply, drainage, and the various factors that would enter into picking a permanent site. That should be set up by the legislature within five years. It would probably take another four or five years for that site commission to explore, prospect the foundation conditions, and study the various sites that might be under consideration. After that, the legislature would provide for a referendum or series of referendums. After that, Juneau might win the referendum and the capital would remain. If Juneau didn't win, then it would be moved as rapidly as feasible which would postulate a period of years, because, as you know, you don't just move away from an established setup and build another one overnight. That, I think, is a fair proposal. I have no great heat in the matter. I just thought it was something that should be brought before the body.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I am against this amendment for a couple of reasons. One is that it is legislation that we are writing into the constitution again. The other is that it sets up a commission and we just got through throwing all the commissions out the window after much debate. There is nothing in this section that isn't already provided for; there is nothing in this proposal that the legislature can't take care of. They can set up a commission to study all of the things that were mentioned. We still have the initiative and referendum proposal that we have adopted, and I am not an attorney, and I maintain that if the capital of Alaska is to be moved or wants to be moved, there are many ways, devious if necessary, that it can be put before the people without writing legislation such as this into the constitution.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I agree with Mr. Doogan, and the thing that concerns me primarily is that we specify a five-year period and then the people have to decide. I can very well see that for five, ten, fifteen, twenty or more years there may be no desire to move the capital at all. There may never be a desire. I think that, as long the legislature has the authority to initiate the move of the capital, or the people have the authority to do it through the initiative, that the matter best

be left until the actual need arises rather than, five years after we become a state, go through this process of trying to decide right then and there whether -- not just whether -- but where the capital should be moved, because this provides for a definite referendum. It implies that it will be within five years, and that at that time people will be given the choice of at least two sites to vote on, and I would much rather leave it to action of the legislature or the people when the need arises.

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

McNEES: Mr. President, I would like to ask Mr. Doogan a question, if I may. Is it not true, Mr. Doogan, that Proposal No. 17/b here is all interim legislation?

DOOGAN: I think it is.

McNEES: I was much in favor of the more brief amendment submitted earlier, but in view of its having been voted down, I am going to support Mr. Rivers' Amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, as Secretary of the Ordinance and Transitional Committee, we held what you might call an open meeting for the members to express themselves upon the location of the capital on January 13. Seventeen persons expressed their views on the matter. Our Committee held this meeting in order to save time, in order to speed the action of this Convention, and now we come up to amendments, new ideas, etc. I feel that this subject has been adequately covered, and for heaven's sake, let's leave something to future generation Alaskans to perfect. Our work is without question marvelous, but there must be something that the legislators and the future citizens of Alaska can perfect that we just haven't made absolutely perfect. I am constrained to vote against this, and I say let's get on with our work. We have less than 255 hours left until 10:00 a.m. on the 6th.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I wish to speak against this amendment for the reason that here we are setting up a special referendum provision machinery. I don't see how we can do that in this assembly here, to go for that after we have set up an initiative and referendum procedure in the constitution. If we do, in effect, we are telling the people of Alaska that we have no confidence in what we have done here in this other article.

PRESIDENT EGAN: Mr. Ralph Rivers, are you closing?

R. RIVERS: I shall close unless anyone also wishes to be heard. If not, I rather object to Mr. Hilscher's statement or implication

that this is not part of the work of the Convention. This is worth considering and turning down if you don't like it. I don't care whether it's five years that the legislature is allowed in which to set up a site commission, or 15. This is the framework; that could be changed and if the public has no desire to change the capital in five years or after they get a report from the site commission, then they could vote in favor of Juneau and leave it there. This is something that I think is a fair way of getting it before the people and having the people of Alaska guided in the matter, and I just submit it to you, that is all.

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

SUNDBORG: I would like a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 11 - Cross, H. Fischer, Harris, Hinckel, Hurley, Londborg, McCutcheon, McNees, Poulsen, R. Rivers, V. Rivers.

Nays: 40 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hermann, Hilscher, Johnson, King, Knight, Laws, Lee, McNealy, Marston, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 4 - Hellenthal, Kilcher, McLaughlin, Metcalf.)

CHIEF CLERK: 11 yeas, 40 nays, and 4 absent.

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

BOSWELL: Mr. President, I have an amendment to Section 20 on the Secretary's desk.

PRESIDENT EGAN: Are there other amendments first, Mr. Boswell, to Section 2? If not, we will proceed to Section 20. The Chief Clerk may read Mr. Boswell's proposed amendment.

BUCKALEW: Mr. President, I wonder if Mr. Boswell would consent -- the Committee has amendments to Sections 20 and 21. Would you consent to the introduction of the Committee amendments first?

BOSWELL: Yes.

PRESIDENT EGAN: Mr. Boswell consents. The Chief Clerk may read the proposed amendment as offered by the Committee. The Convention will come to order. Do all of the delegates have a copy of that proposed amendment before them?

JOHNSON: Point of information. Are we working on 17/b?

PRESIDENT EGAN: 17/a, Mr. Johnson. Would the Sergeant at Arms please bring Mrs. Hermann a copy of Committee Proposal No. 17/a; Mr. Collins needs one also; and the amendment that is being offered by the Committee to Section 20 of Committee Proposal No. 17/a. If there is no objection, the Convention will be at recess for two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We now have the amendment to Committee Proposal No. 17/a, Section 20.

CHIEF CLERK: "Strike Sections 20 and 21 and substitute the following: 'Section 20. If this constitution shall be accepted by the electors and a majority of all the votes cast for and against the proposition to abolish fish traps shall be cast for adoption of the proposition, then the following shall become effective: As a matter of immediate public necessity, to relieve economic distress among individual fishermen and those dependent upon them for a livelihood, to conserve the rapidly dwindling supply of salmon in Alaska, to ensure fair competition among those engaged in commercial fishing, and to make manifest the will of the people of Alaska pending the establishment of the first state legislature, the use of fish traps for the taking of salmon for commercial purposes is hereby prohibited in all the coastal waters of the State until otherwise provided by law. Violations of this section shall be punishable by a fine not to exceed \$5,000.00 and by confiscation of the fish traps. The police power of the State shall be used to the extent necessary to enforce this section. Section 21. Each qualified voter who offers to vote upon this Constitution shall be given a ballot by the election judges which in substance shall contain the following proposition:

Shall the proposed constitutional provision	_____
prohibiting the use of fish traps for the taking	YES
of salmon for commercial purposes until otherwise	_____
provided by law, become effective?	NO."

PRESIDENT EGAN: Mr. Buckalew.

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

UNIDENTIFIED DELEGATE: I object.

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

BUCKALEW: I so move.

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Buckalew so moves, seconded by Mr. Knight. Mr. Fischer.

V. FISCHER: Mr. President, I very much object to the words on the first page in the second line from the bottom, "until otherwise provided by law", and the same language in the proposition to be put on the ballot. I think that it is unnecessary language, first of all, in view of the fact that Mr. McNealy explained this is going under the preamble of the schedule of ordinances. But even aside from that, I feel that it is undesirable language because it implies that it may be a year after we get statehood, it may be two years after we get statehood the legislature may provide for fish traps. I don't think that is desirable language, Mr. President, and I would like to amend the amendment by striking the words "until otherwise provided by law" in Section 20. May I do it for both sections at the same time?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, the Committee doesn't have any objections.

HILSCHER: Mr. President, I rise to a point of order. I am Secretary of the Committee and I don't think I have a copy of the amendment that Mr. Buckalew is calling a committee amendment. I think it is the Buckalew amendment. I fail to find any.

BUCKALEW: We had a meeting of the majority of the Committee, Mr. President, and it was adopted. I don't know where Mr. Hilscher was. He is kind of hard to find sometimes.

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

V. FISCHER: I move that the words "until otherwise provided by law" should be deleted in Sections 20 and 21.

PRESIDENT EGAN: Mr. Fischer moves. Is there a second?

BUCKALEW: I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment as proposed by Mr. Fischer. Is there objection? Hearing no objection, the amendment is ordered adopted. Mrs. Hermann.

HERMANN: May I ask Mr. Buckalew a question? I would like to know just how one would go about confiscating fish traps.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: You mean the mechanical process?

HERMANN: Yes.

BUCKALEW: I imagine you would confiscate it the way you would a boat or a seine or anything else. It would probably be a little difficult. I imagine you would just tear the rigging out so the traps would be inoperative. I don't think the state would pull the pilings out. If you confiscate it, you would put it in such condition that it couldn't fish anymore.

HERMANN: Is that what "confiscate" means?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to elaborate on it. We have two types of traps; that is, a large trap with what they call a floater, put together with logs, and towed to and from the site where it is set out for the summer, and it can be confiscated the same as any other thing. The other matter of confiscation would be merely a matter of prohibiting the use of it, and in time, the weather and elements would take the piling out and there would be no fish traps there.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: May my amendment be read now?

PRESIDENT EGAN: Mr. Boswell, we have the pending amendment before us.

BOSWELL: I thought that was the unanimous consent.

PRESIDENT EGAN: No, that was just for the adoption of the deletion of those words, Mr. Boswell.

HURLEY: I rise to a point of order. I believe Mr. Boswell seeks to amend the amendment.

PRESIDENT EGAN: Well, he has a separate amendment. If he desired to amend the amendment, he would be in order, but that isn't the Chair's understanding.

BOSWELL: My amendment is to strike the entire amendment.

PRESIDENT EGAN: Is that your amendment, Mr. Boswell? Whether or not that would be -- it's sort of hard to feel that that



would be an amendment to this amendment. You will be in order though when this --

BOSWELL: Their amendment replaced their original section, and Mr. Buckalew asked permission to put it in before my amendment and that was granted. I take it that that is in now.

PRESIDENT EGAN: No, it isn't in now, Mr Boswell. When we act on that, your amendment will certainly be in order. Mr. Johnson.

JOHNSON: May I direct a question to Mr. Buckalew?

PRESIDENT EGAN: You may direct a question, Mr. Johnson.

JOHNSON: In Section 21 of your proposed amendment, the proposition as suggested to be placed on the ballot contains the language, "shall the proposed constitutional provision prohibiting the use of fish traps", and so on. Now the thought that occurs to me is, if this amendment carries and becomes a part of the schedule, will this language be correct? Is it a constitutional provision?

BUCKALEW: Yes, it is a constitutional provision, Mr. Johnson.

JOHNSON: Well, I was under the impression that the schedule was not a part of the constitution.

BUCKALEW: It would be a constitutional provision; it would remain in effect until the legislature acted on this subject. It might remain in effect forever, but it would still be a transitory measure.

JOHNSON: If it is not in the constitution, how could it be a constitutional provision? That is the point I make.

BUCKALEW: Well, it's just the language. What else could you call it? It is a provision in the schedule and the schedule is part of the constitution. That is the only terminology I have seen used -- "constitutional provision".

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. Buckalew a question?

PRESIDENT EGAN: You may ask a question.

R. RIVERS: Could you say "constitutional ordinance"?

BUCKALEW: Well, Mr. Rivers, there is a technical distinction; it's not too well defined between an ordinance and a constitutional provision. The reason I used this language is because of the type of provision it is. If I used the word "ordinance", it

might be subject to attack on the grounds that it wasn't a pure ordinance in the strict sense that we know of other ordinances that you find in the constitution, and the cases that I have read; in similar situations, they used the expression "constitutional provision".

R. RIVERS: Mr. Buckalew, you spoke of action by the legislature which you say might never happen. This is set up to be a self-executing ordinance, is it not?

BUCKALEW: That's right.

R. RIVERS: The legislature wouldn't have anything to do with it, would it?

BUCKALEW: The reason that the matter is put in the schedule is that, if the legislature ever wanted to act on the subject, they could act on it. If you put it in the body of the constitution, perhaps it would be abolished forever and the legislature could never legislate on that subject unless they amended the constitution, and the purpose of this provision is to only insure the immediate closure of the traps the instant the state receives her sovereignty. The minute they are admitted the traps are outlawed, and that would cover the time from the instant we are admitted until the time that the first legislature meets. It might be three weeks; it might be a month; it might be two months. But, if it happened during the fishing season, it is possible the traps could fish for another whole season. That is the reason the ordinance is in there -- to cover that situation.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I am still going to stand with these particular sections, 20 and 21, whether they should be adopted or stricken. What happens to Section 19, then, and the original Proposal 17, which is still left in? Does all that take the same effect then?

PRESIDENT EGAN: Mr. McNealy, what happened to Section 19? Is that still in Proposal No. 17/b?

MCNEALY: There was different numbering. Mr. President, I want to explain on this, it comes out as a committee amendment without any objection on my part. The original ordinance, as I understood it to be, was voted on by the Committee. At that time it had another number, and the Committee vote was five to four on it, and we reserved the right to talk as we saw fit. But now as to the section numbers, Mr. President, they will have to be either arranged by Style and Drafting there on our consideration, that is, the full Committee consideration was given under different numbers, but I believe this is substantially along the lines.

BUCKALEW: Well, now, as I recall it, when this proposition came up, we voted eight to one to put the ordinance in the schedule, and the vote was five to four to put the fish traps in the body of the constitution. Wasn't that the vote?

MCNEALY: Mr. President, if I remember correctly, the original vote was eight to one in Committee in favor of the abolition of fish traps and was based upon a proposal given the Committee by Mr. Lee, which simply stated in just about two lines that "fish traps shall be abolished". And then, an amended version and a longer version was first brought on the floor here, was voted on, Mr. Buckalew, and the vote was five in favor of putting that particular ordinance in the constitution, or provision, as you call it, and I believe that you and I talked over this amendment here and I don't know what other conversations you had with the others on the Committee, but it was five to four on the longer version. I believe that should be in the Secretary's record.

PRESIDENT EGAN: Mr. Buckalew, the Chair was wondering and perhaps Mr. Robertson was wondering where these other sections went between Section 2 and Section 20. He specifically asked the original question with relation to Section 19.

BUCKALEW: The thing is, we have a whole schedule, and we wanted to get the capital and the fish traps out because they were finished. Now the 1 to 19 is on the desks of the Committee, it has been introduced.

PRESIDENT EGAN: Section 19 will still come before the Convention? Is that correct?

BUCKALEW: What is Section 19?

COOPER: Point of information. Isn't Committee Proposal No. 17 automatically withdrawn by being superseded by Committee Proposals 17/a and 17/b?. If so, there would be no Section 19, there would be no other sections.

PRESIDENT EGAN: Was that the action taken last Saturday by the Convention?

COOPER: I don't know, sir. I am asking you. Isn't 17/a and 17/b superseding Committee Proposal No. 17?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My recollection is that Mr. McNealy or some member of his Committee asked the Convention's permission to consider these two sections, which are really three sections, before they considered the whole Proposal No. 17, and that permission was granted.

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

RECESS

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

McNEALY: Mr. President, I move and ask unanimous consent to withdraw Committee Proposal No. 17.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that the original Committee Proposal No. 17 be withdrawn at this time. Is there objection? Hearing no objection, Committee Proposal No. 17 is ordered withdrawn, and we have before us Committee Proposal No. 17/a. Is there further discussion regarding Committee amendments? Mr. Hurley.

HURLEY: Mr. President, point of information.

PRESIDENT EGAN: Your point of information?

HURLEY: It is my understanding that Committee Proposal No. 17/a, Section 20, to be in accord with 17/b, should be numbered 24 and 25. In other words, 20 should be changed to 24, and 21 to 25; and then we'll be, I think, in order.

PRESIDENT EGAN: Does the Committee have objection to renumbering in their proposed amendment Section 20 to read Section 24, and Section 21 to read Section 25? Is there objection? Do you ask unanimous consent, Mr. Buckalew, that that be included as a part of your proposed amendment?

BUCKALEW: I do.

PRESIDENT EGAN: Hearing no objection, it is so ordered, and the renumbering is included as a part of the proposed amendment. If there is no further discussion with relation -- Mr. Smith?

SMITH: Mr. President, I would like to ask Mr. Buckalew a question.

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

SMITH: On line 1 of page 2, where you say "pending the establishment of the first state legislature", is it your thought there that this ordinance shall only be effective until the first state legislature is established?

BUCKALEW: My thought was that the first state legislature -- they would be abolished from now on; if the first state legislature didn't act on the subject, they would still be abolished.

SMITH: Well, do you think this language says that?

BUCKALEW: I think it does, but I think we could make it clearer than that. Now that I read it, I see your question.

PRESIDENT EGAN: Do you ask for time to make that change, Mr. Buckalew?

BUCKALEW: Well, I ask for a two-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the proposed amendment as offered by the Committee, Sections 24 and 25 of Committee Proposal No. 17/a -- Mr. Lee?

LEE: Mr. Chairman, I don't know if all the people here -- are we voting on the adoption of this amendment or changing it?

PRESIDENT EGAN: It would be on the adoption of the proposed amendment that we have before us here, Mr. Lee.

LEE: I would like to say a few things, not very much, if this is the time.

PRESIDENT EGAN: It isn't the final vote, Mr. Lee.

LEE: Oh, that's what I wanted to know.

PRESIDENT EGAN: This is a vote as to whether or not to adopt this proposed committee amendment to Committee Proposal No. 17/a.

LEE: All right. Thank you.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?"

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

METCALF: May I abstain, sir?

PRESIDENT EGAN: Do you ask to abstain, Mr. Metcalf?

METCALF: I do.

PRESIDENT EGAN: If there is no objection, Mr. Metcalf, you may abstain. Mr. Davis.

DAVIS: Mr. President, maybe I misunderstood you, but I thought you said a moment ago that we were voting on whether or not this amendment would become a part of the committee's report, and then I thought the last time you put the question you said, "The question is whether or not we should adopt this amendment." There is quite a difference.

PRESIDENT EGAN: As a part of the committee report. Mr. Hilscher?

HILSCHER: As a member of the Committee, may I ask what we are voting on now? Is it to include this in or out or what?

PRESIDENT EGAN: This vote that you are going to be voting up on now, Mr. Hilscher, is on the question whether or not to adopt this proposed committee amendment as a part of Committee Proposal 17/a.

HILSCHER: And then it becomes Sections 24 and 25?

PRESIDENT EGAN: That is correct. Mr. Taylor.

TAYLOR: Mr. President, I am just rising to a point of information.

PRESIDENT EGAN: Mr. Taylor, your point of information.

TAYLOR: Is it permissible to offer an amendment to this now in the event it is adopted and goes in as 24 and 25 --

PRESIDENT EGAN: Yes, amendments can be offered at that time.

TAYLOR: At that time, not this time?

PRESIDENT EGAN: Of course you can offer amendments to the amendment, if you so desire, Mr. Taylor, but if it would be adopted, other amendments could be offered for the adopted section. Mr. Hinckel.

HINCKEL: I am only rising to a point of information.

PRESIDENT EGAN: Your point of information.

HINCKEL: I would like to speak in favor of this or some similar article, but I just don't understand when.

PRESIDENT EGAN: Mr. Hinckel, you could speak to the adoption of this proposed amendment if you desire to do so. You could also, then later, speak to it in third reading, to the whole proposal, if you so desired.

HINCKEL: Maybe I'd better speak now, first. I haven't a great deal to say except that I think that everybody here understands

pretty well what a fish trap is and what the disadvantage of their continuance in use is. They also understand how the fishermen all feel about it. I come from a part of Alaska where a great many of the people are fishermen and depend upon their fishing for their livelihood. The people over there have sent me no ultimatums or anything in particular up to now regarding the constitution, but they have asked me to support anything that would get rid of fish traps. I have also seen in the paper the last few days where the Alaska Department of Fisheries held hearings over there in Kodiak. It was on the 23rd of the month. And you probably noticed the items that the people over there voted that they wanted immediate abolition of the fish traps. They were not satisfied with the proposal of the Department of the Interior; neither were they satisfied with Delegate Bartlett's five-year plan. They want them out, and out now. This amendment that is offered here now, one of the main things about it is that it is asking for them to be gotten rid of immediately upon the acceptance of the constitution, and it's for the good of the people, to relieve economic distress, and believe me, there are parts of Alaska where there is economic distress due to these fish traps. I ask you to do anything that you can, either in accepting this amendment or getting the section into the ordinances, or whatever it is that can be done to make sure that we will eliminate or abolish fish traps as soon as possible. It's for the good of the people of Alaska.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to ask a brief question of Mr. Buckalew. Is this amendment designed to eliminate any questions about fish wheels or any other gear used by Natives in rivers or any place else?

BUCKALEW: Mr. President, I will just take a few minutes. It's confined now to the coastal waters of Alaska, and all the questions that were raised on the floor I feel confident have been cured. I should explain one thing to the body, Mr. President. The reason that this thing is so lengthy is that, after spending four days' research on ordinances and constitutional provisions, on a matter such as this, you have to show the reason for including it in the schedule. You have to establish that it is in there for a purpose. You have to show that there is an emergency, and you have to show that you are trying to take care of that transitional period, from the time you receive your sovereignty until the time that the legislature has a chance to work. Now Mr. Smith is a little worried about a question. He says it only abolishes traps up until the time the legislature is formed; well, that is not true. The thing reads, "...to conserve the rapidly dwindling supply of salmon in Alaska, to ensure fair competition..., and to make manifest the will of the people of Alaska pending the establishment of the first state legislature..." fish traps are abolished. Now, if the legis-

lature never acts on them they are still abolished, but we are trying to take care of that interim period, and I feel that all of this language is necessary because I suspect that if the ordinance is ever in court, I want it to stand up, and I feel a little fearful if any of the language is stricken.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise to a point of information.

PRESIDENT EGAN: Your point of information.

R. RIVERS: I think there is still some confusion in the minds of the delegates. I am not too clear on it. This is offered as a committee amendment to what is now known as Sections 24 and 25. If we adopt this amendment, do we still have Sections 24 and 25 before us for further action?

PRESIDENT EGAN: Yes, Mr. Rivers.

R. RIVERS: I might say I support this amendment, although I propose to oppose the main proposition later, after we get it in the form we want it in. This improves the previous draft, so let's get it in.

PRESIDENT EGAN: The question is, "Shall this proposed Committee amendment be adopted?" Mr. Lee.

LEE: It's inconceivable to me that any representative of the people of Alaska could think about barring any change to eliminate the fish traps. It has been a burden upon the people of Alaska for my entire life and, prior to that, on other people, and I can't see how you people can fail to include this in your constitution. The people have always shown they have wanted them out, get rid of them, they have never had any power. If that same power can work on a body like this as it has on others, and we neglect to take care of the people of Alaska in this problem, I, for one, will be greatly disappointed. Now, in '48 we had a referendum on it. Eight to one they voted to abolish the fish traps. What better argument could we have for getting ratification of our constitution? People want the fish traps out, it has been proven. Now, if this is in our constitution, the people are going to go and vote to get the traps out, and there are going to be many of them that will vote that otherwise would never have voted before, and they will vote to ratify our constitution, and that, of course, will work to serve our purpose here. I don't know if all of you people are familiar with the operation of a fish trap. A fish trap is a huge piece of equipment, bigger than -- it covers as much area as this building. It is fastened from the shore; it has piling going out from the shore; it has a long lead -- they call it a lead. I couldn't find the length that is the limit on them. I should be



corrected -- I think it is 500 yards -- a thousand feet -- that it can project out into the sea, and that has a huge structure that works like a maze, and the salmon follow in through and they go around through the different compartments of the trap until they come to what is called the "spiller", and there they bunch up until they are gathered into a boat and taken into town. Now, a salmon comes in from the sea; it is a free fish; belongs to all of us people. It comes in, and it works its way in toward its stream from which it originated; it falls with the tide, and goes and hits this lead that is projecting out there 24 hours a day except during closed period. It hits the lead and it doesn't get away; it follows and goes in there and is caught. Of course, fishermen can't fish within a certain area of that trap because it is not permitted, that is, with regular gear that is handled by Alaskans, and this trap is designed so that it catches fish no matter what way they go. A fish travels with the tide -- a salmon -- and it continues toward the stream and each time, after it goes a certain distance, on the outgoing tide again, it will drift back a certain distance; then the trap catches it from the other side. A trap, of course, doesn't select what fish it catches. You talk about conservation of salmon. This also applies to a great number of other types of fish -- snappers, trout, king salmon, halibut, codfish, and many other fish that operate in the same way. They lead along any type of lead. This lead projects way down to the bottom, and the trap itself has a bottom. The fish can't get out after they once get into this maze. Now, we have a certain number of these traps that have been there for many years. I can't get one. I couldn't afford to get one, in the first place, and they won't give me any either. The trap sites that are occupied now are the only ones that can be had. That's un-American, un-Alaskan, indecent, and that is what we are living under now. I used as a comparison the other day in my argument before the Committee, I compared a fish in the sea to be very like a caribou out on the tundra. You people aren't faced with a problem where a certain group has permission to set up a huge corral and catch the migrating caribou as they come by for their exclusive use, and then not permit anybody else to set up that type of trap. Now that is the thing we have facing us in the fisheries. I hope I have convinced you. It is a desperate situation, and we will lose a great deal of the faith of the Alaskan people if we fail to vote to include this.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted as a part of Committee Proposal No. 17/a?" The Chief Clerk will call the roll.

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

Yeas: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley,

Johnson, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 2 - Laws, Robertson.

Absent: 4 - Collins, Kilcher, McLaughlin, Stewart.)

CHIEF CLERK: 49 yeas, 2 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment has become a part of Committee Proposal No. 17/a. Mr. Boswell.

BOSWELL: Mr. President, may I introduce my amendment now? It will have to be changed to conform with the new numbers.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment of Mr. Boswell, including the section number changes.

CHIEF CLERK: "Strike Sections 24 and 25."

BOSWELL: I so move.

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

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Boswell.

BOSWELL: In proposing this amendment, I seek to strike to the heart of this problem and possibly save some Convention time. I think the first thing we must decide is whether this should be a part of the constitution as an ordinance, and if we can arrive at that proposition, we will save a lot of time amending the amendments. We have wasted about 40 minutes now discussing this matter; we argued around the other evening a half-hour, trying to decide whether a fish wheel was a fish trap; so I was interested in trying to save some time. The problem that faces us, as I see it, is not based on the faults or the merits of fish traps, but is, rather whether an ordinance is a proper approach to the problem. For the past 20 years, legislatures have been passing memorials to Congress to abolish fish traps, and it's inconceivable to me that the first state legislature wouldn't do this as a matter of course, and they would do it in an orderly manner. The danger of this ordinance, as I see it, is that it gives the

trap interests some very strong ammunition for opposing statehood and for opposing ratification of this constitution. It also might mean the temporary loss of important revenues to the new state by the action taken on Mr. Buckalew's ordinance. I am going to call this Mr. Buckalew's million dollar ordinance, because it could very easily cost the new state a million dollars if this should happen at the height of the fishing season or at the beginning of the fishing season. Now, as I understand it, the abolishment of fish traps will require a lot of boats and a lot more fishermen, and how are we to know when these fishermen are going to have to step into the breach and take up the place of the fish traps. If this should happen on some day during the height of the season, the traps close down, there would be many cannery workers out of work because the boats wouldn't be in the proper place at the proper time; they couldn't possibly be. So, the inevitable result would be a serious dislocation of the entire industry and the loss of the revenues, perhaps for that entire season, and that could be a very sizeable sum. We studied this matter in the Resources Committee. It was not a unanimous decision, but it was a majority decision that we could reach this proposition better by a resolution from the Convention to the first state legislature, and it seems to me that that is a better approach. I think we should strike these sections because I think they are dangerous, and I think they might result in a serious temporary dislocation of the fishing industry and perhaps a great loss in tax revenues.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think that I can remember all of the points that Mr. Boswell made, but the first point I would like to take up is, he spoke of the enemies of statehood and how they are really going to come after us if this ordinance is in there. Well, they have been fighting us for years anyway. Their battle lines are drawn, and it is not going to give them any ammunition, because they have been fighting us all this time anyway, and this just points out to them that, when we get to be a state, they have had it. And it's certainly not going to cause us to lose any friends in Washington, because Alaskans have been going back there for years and years, yakking about these traps, passing memorials and referendums and what not. Now let's be logical about this -- Buckalew's million dollar ordinance -- I would like to call it Mr. Lee's million dollar ordinance because he sent it to the Committee. I don't know whether that would improve my credit to have an ordinance referred to as Buckalew's million dollar ordinance; it might improve my credit; I don't know. Now, when we get ready to be admitted to statehood, the salmon industry is going to know as much about that as anybody in Alaska. They are going to know approximately what date the state is going to be organized.

They can tell you within a day what date the state will be able to strike the traps. Now, they will make arrangements to take care of themselves. Now, as far as the individual packers are concerned, I hope there will be enough fish left, but I think the individual fishermen here in Alaska will be able to catch enough fish out of what is left of the run to get along, and I don't think there is going to be any inconvenience at all. Now from what I have heard from Delegate Emberg, Delegate Smith, Delegate Peratrovich, the situation with the salmon industry and the salmon run is critical. Now, they have advised me that, if things keep going like they are, and even if there is a period in there where the traps as they are now set up, they could fish another season, they claim it depends upon when we are going to be admitted, and we don't know. So we might as well forget about it because there are not going to be any fish left anyway. So we don't have to worry about these people in the canneries, because in a few years there aren't going to be any canneries anyway because there aren't going to be any fish. And that is what we are trying to do -- we are trying to step in and save our heritage at the first possible moment. And this million dollar amendment, whichever amendment it is, or ordinance or proposition, has merit. It's strictly a transitional measure. Now we are trying to stop up a void in Mr. Boswell's resources thing. I will agree with Mr. Boswell. I don't think it should go in his resources article, but I do see that there is a big gap in his ordinance. He claims in his ordinance that we own all the fish of Alaska. Well, who is going to protect those fish until the first legislature is convened? We have got to do it, and that is what we are trying to do, and that is the purpose of the ordinance. It is not going to cause inconvenience; we are not going to lose any friends in Washington. The battle lines are drawn anyway, and I don't think any of his arguments have too much merit.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to state that I would have to disagree with Mr. Boswell on his vote -- deletion of this. I believe that we should have something in our ordinance. I admit that I thought this over quite a while before I decided that it should be in the constitution, someplace. I think this is such a serious matter to so many people in our Territory that an ordinance like this would have a good effect, particularly lately, since there has been talk in the government and in the newspapers that Alaskans were willing to wait for ten years to eliminate traps. I think a statement at this time, or when the constitution is adopted, would be of great help.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I would like to refer to some of the statements made by Delegate Boswell. He referred to this as a "million dollar

ordinance". I am going a little further than that. To the best of my knowledge, since the fisheries were started and were developed in Alaska, they have produced about two billion dollars worth of salmon. The question is now, how long are we going to have salmon as a resource? I would call this a "billion dollar ordinance" and would be proud to be associated with passing it. I would like to make another comparison in regard to fisheries. Delegate Lee mentioned that he compared the salmon with the caribou as a resource. I would like to compare it with mining. I know there is no one in the Territory of Alaska, or the State of Alaska, who would be satisfied with a mining law that said only the operator of a dredge could hold a property right in minerals. Then you raise the question of competition of the little man. That is what we are up against in fishing. I am not going to ask that question of Delegate Boswell because I know what his answer would be to that sort of a proposition without asking him. Then there is one more thing I would like to bring to your attention about this. As long as traps are legal fishing gear in Alaskan waters, the Fish and Wildlife Service, the administration agency, has the alternative course, when the fisheries are depleted to a certain extent, to close down a fishing area for four years, five years, if necessary, to bring the salmon back. They can do that because traps are legal. I don't believe the industry is worried much about depletion, because they figure, when it is carried far enough, the fishing areas are closed down three, four, or five years, the small fishermen are starved out. And when the area is opened up, who will be there? The trap men and the canneries. I say that if we can -- and I feel that it's a legitimate function of this body -- to legislate through ordinance, I think we should provide this. This is very, very essential to the future of Alaska.

Mr. Taylor.

TAYLOR: I might make it a little clearer, a person being in the legal profession, that we talk about fish traps, but it happens to be that I lived for 29 years in one of the best fishing areas in Alaska. I have been on traps, and I have been on fishing boats, and I have been around canneries, and I know quite a bit about them. In fact, I had an opportunity, or it was a necessity of making a study one time when I was in the legislature when there was a bill regarding an attempt to tax fish traps out of existence. At that time, there were something like 500 traps in Alaska. They have since been reduced a little bit. And it was felt by a survey by fishermen and men who were supposed to know that it would take 3,000 fishing boats to do the work that these 500 or 600 traps were doing. Figuring at least four men to a boat, which would give you about 12,000 men working and who, in all probability, the fact that these boats are not large, would become residents of the Territory of Alaska. They would have their families here; they would become a part of the Territory; and with that number of men working in addition to the

fishermen we have now, with their own boats, it would be a \$10,000,000 ordinance instead of a \$5,000,000 ordinance. In addition to that, it means money for the Territory; it means more business; it means boat building shops; it means ship chandlers; and the nets and other things that goes to making up the fishing industry. I think this is a necessary ordinance. Now, we have good authority that the traps are the destroyers of the fish. We have the figuresto show, and right in the paper today, the smallest catch of fish in Alaska in 50 years was in 1955; and we have it upon good authority that the traps were responsible for that depletion of the fish, because Mr. McKay, Secretary of the Interior, has recommended to Congress that a ten-year elimination period for fish traps be put into effect. Where did Mr. McKay get his information that he could make that recommendation to Congress? He got it from the Fish and Wildlife Service in Alaska here, and they know that the financial ruin of thousands of people in Alaska can be attributed directly to the unrestricted use of traps over the years. And as long as we have the traps, we are going to lose more fish until, as Mr. Emberg says, finally they will starve the small man out and the canneries will come back. I don't believe, as Mr. Boswell says, that this is a million dollar ordinance; it's a ten million dollar ordinance. It means ten million dollars more a year to the people of Alaska, if not more, and it will mean also that in the years we can build up, by proper protection and propagation of the species, we'll get the fishing industry back to where it was years ago, and the money derived from the fishing industry, to a great extent, will go to those people of Alaska who go out and wet their hands and their nets and their boats, pull that harvest out of the sea and take it to the canneries, and we get some benefit of it, and I think this ordinance should be there. I feel very keenly about this. I saw the distress and want of many of the villages of Alaska by reason of when the fish were running heavy, the traps were full. What happened? Did the fishermen get any benefit? No! The canneries said, "We can't take your fish because we are getting so many in the traps we can't handle them. You come on in and work in the cannery here and we will give you \$1.25 an hour." The fishermen didn't get any benefit from the run, and I think if everybody is on the same footing, he has his fishing boat and he goes out, it is going to mean a great deal of prosperity to the entire coastal waters of Alaska. I think Mr. Peratrovich and Mr. Emberg can bear me out in the statements I made.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, this is such an important question, I am compelled to rise and say what I have against the amendment proposed by Mr. Boswell. I know this question, perhaps, is not understood by, I would estimate, 40 per cent of you here. By that, I mean you don't realize how vital it is to us people down from the Southern Division of Alaska. As Mr. Taylor has related

to you, and other speakers here, this attempt of doing something about this unfair competition of fishing with traps has been carried on for years. We have gone to the legislature, and I have been a part of the legislature where an attempt was made to memorialize Congress. In most cases we were successful in doing so, but those of you that are familiar with the proceedings of the legislature are aware of how meaningless memorials are to Congress. You can memorialize all that you want to on any issue you want to, not only fish traps, but that is as far as it will go. You never get any action on it in Congress. Now, I can't say that it was exactly the fault of the legislators that we memorialize Congress to do something about the traps. We had no other alternative under the Organic Act; that was the only way we could approach this vital question, but we made several attempts as I stated. Now, in drawing this constitution, we are very much concerned with our natural resources; we made provisions for one of our major resources -- mining -- and I was satisfied to abide by the people that were familiar with this type of work. I do feel that fisheries is a very important resource to Alaska, too, and it has come to a point where those of us that are willing to live in Alaska and know of no other place, are going to live here permanently, I think it is our duty to try to do something about it. And it is with that thought in mind that I feel that I am compelled to stand here and try to help do something about this unfair competition if I can. Now, it was brought out here that, if this sort of provision is put in the Constitution, it is going to cost the Territory a million dollars. That may be so, but I ask you which is cheaper for us people here to decide. Is it best to lose this approximate figure of a million dollars or else perhaps expend five million dollars to support the people who depend on this type of work? And right today, your welfare departments are taxed to death and, I might add, it's not only the Natives; you have white families as well as the Natives who depend on the welfare departments. The fishermen, they have no way to turn; their resources are depleted to a point where they can't even pay interest on their boats. They can't go to other towns to secure work because they have their own problems also. So I feel that we are going to evade the issue here if we don't make a provision in this constitution. I don't think anybody is going to condemn us for it, and I don't think the canned salmon industry is going to persuade enough people to defeat our constitution just on that ground. Whatever the consequence may be, I think we owe it to the people of Alaska to take care of this resource. Mr. Taylor related that approximately 12,000 people are dependent on this resource. I venture to say it is around 20,000, because, instead of having four men to a boat, you have to have seven now. That is what the seiners are doing also to take care of themselves. They can very easily get along with perhaps four, but there are men with families that need work, consequently they take on extra, and every boat that you see now fishing has approximately seven men on it. Now, that is the situation that exists today, friends, and I think we are evading

the issue if we don't take a stand here one way or the other. I urge you to retain such a provision in our constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee and other announcements, I move we stand at recess until 7:00 p.m.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent. Are there committee announcements to be made at this time? Mr. Victor Rivers.

V. RIVERS: The Committee on the Executive will meet upstairs at 6:45.

PRESIDENT EGAN: Executive Committee will meet upstairs at 6:45. Mr. Nerland.

NERLAND: Finance Committee will meet immediately upon recess.

PRESIDENT EGAN: Finance immediately upon recess. Mr. Riley.

RILEY: Mr. President, Rules immediately and briefly upon recess.

PRESIDENT EGAN: Rules immediately and briefly on recess. Mr. McNealy.

MCNEALY: Mr. President, Committee on Ordinances will meet immediately upon recess.

PRESIDENT EGAN: Committee on Ordinances immediately upon recess. Mr. Sundborg.

SUNDBORG: I renew my unanimous consent request for a recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 7:00 p.m. The Convention is at recess.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Boswell's proposed amendment. Mr. Boswell, are you rising to speak on this?

BOSWELL: If there is anyone else who wishes to speak on this --

PRESIDENT EGAN: Is there anyone else who wishes to speak? Mr. Smith.

SMITH: I would like to say a word or two on this. Mr. President, I would like first to simply endorse almost entirely the things which have been said here before. However, there is one other



thing which should be said. I know that there are some of you who wonder whether this issue is basic enough or fundamental enough to justify action by this Convention. I can say in all sincerity that it is my opinion that this one issue is the thing which gave the greatest impetus to the statehood movement which resulted in the calling of this Convention. This issue is so basic and so fundamental that I simply cannot conceive of any written history of Alaska without a full and complete coverage of the history of the impact of the fish traps on one of the greatest natural resources ever known to man. This impact has been so great that this resource is much closer to final destruction than most of us realize. It will probably be said, as it has been said in the past, that we should give the trap operators ample notice before taking any action; that there should be some time element written into the provision whereby we would be sure that the coming of effect of this ordinance would not disrupt the fishing industry in the middle of the season. I submit to you that, when the people of Alaska ratify this ordinance, first notice will have been served. Passage of the enabling act will be the final notice, but even then, there probably will be another period of grace pending the final formation of a state government. The question of the effect on Congress will be raised. The people of Alaska have never made any secret of the fact that, when they achieve statehood, the traps will go. They have abundantly made it clear that this will be so, and they have made it clear for a long number of years. Bills to accomplish this purpose have been before Congress every year for at least 15 years. Alaska is going to face a long and difficult task in rebuilding the salmon run, and the longer present management policies continue, the longer, harder, and more expensive this task is going to be.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, in view of the fact that no other delegate has spoken in favor of Mr. Boswell's amendment, I feel constrained to speak in favor of the amendment, and for these reasons, but very briefly and not particularly strongly on it, because I feel that those of us residing in the Second and Fourth Division realize that this is an Alaskan problem and the vote here would be overwhelmingly to abolish fish traps. But I believe the greater problem lies with the First and Third Divisions. Now, at the outset and to explain my reasons for supporting the amendment as offered, the Committee had agreed almost unanimously -- I believe it was eight to one -- supporting an ordinance as offered by Mr. Lee which was short and concise and to the point and said fish traps would be abolished and that we provide for a referendum. Then and at the time I felt, and several members felt, that it was a legislative matter, but we didn't urge the point too strongly until the amendment came out in the Committee with the \$5,000 fine and various other sundry things which, to a blind man, spells legislation. Now, I trust that anything I may

say will not be taken personally against me by those who are so strongly in favor of the fish trap ordinance, and I felt quite strongly the other day and was somewhat disappointed in speeches on the floor by a great number now who are supporting the fish traps in regard to the game commission, and I am sure that we took that with a smile when it failed to carry the body, and I am sure that those of you who are so strongly in support of this fish trap ordinance as it stands should give me the same consideration. I was disappointed at that time and a little hurt by some of the speeches that were made here against the sports fishermen. Some of them I considered very inappropriate and so, therefore, you may also consider some of my remarks inappropriate as to the fish traps, but I feel here that it is a legislative matter. I can't conceive of any legislature going to Juneau, and the first legislature sitting in Juneau but what a bill would be proposed, and probably one of the first bills before the legislature to abolish fish traps. The state would have a sovereign power to abolish them, and I can't imagine any representative or senator voting against the abolition of fish traps unless he was intending to move on to Seattle right after the session was over. It is, in my opinion, strictly a legislative matter. As my personal feeling goes, I am for the abolition of fish traps. And in the last term of the legislature, every bill that came out in the house that in any way opposed the canned salmon interest I voted for it, and a good many of the bills carried my name along with Mr. Stanley McCutcheon whom I am sure most of you present know how his feeling is in regard to the fish traps. In closing, only this one thought: when we thought of legislative matters it was along this line, that in writing it in -- I simply throw this out for consideration -- there have been any number of states who have written in provisions of certain types that the Congress or some of the members of Congress didn't want to accept and, therefore, they sent the constitution back to the people to change. This was discussed in Committee and that is all that it's worth as to its weight -- that there would be a possibility if the ten-year graduated trap elimination law would be passed by the Federal Government, some of the Congressmen and Senators might raise the point and say, "Well here they have gone contrary in the constitution to the wishes of Congress", and strictly in the face of this federal law, and they might get enough support to say, "We will agree to admit them providing you send it back and have it taken out of the constitution." That has happened in Arizona in the recall of state judges; it has happened in Puerto Rico in the welfare clause; it has happened in Michigan and in 14 or 15 other states in little items that Congress sent the constitutions back. Now, whether that has any point in it or not, I do not know. I still feel -- I still am in favor of the abolition of fish traps, but on such premise as I have spoken, I believe it is a legislative matter, and regardless of this federal law, once we became a state, the first state legislature could exercise its state sovereignty and abolish the traps forthwith, and on that I will close and whichever way this amendment might go, I do hope that if the amendment remains on as part of

the article here, that it is substantially changed. In its present form, I believe it is quite dangerous to possibly even the chances of immediate statehood.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I merely wish to ask a question. I have been under the impression, and maybe I have been wrong, that an ordinance is more nearly in the nature of legislation than it is in constitutional law, and I would like to be informed on this fully, whether or not this amendment is legislation in the sense that we know legislation or if it is being put in an ordinance embodied in the constitution. I was of the impression that the ordinances were temporary measures and were not an integral part of the constitution, and that by their nature they were temporary legislation. I want to know.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think Mr. McNealy will agree with me that the schedule is not a part of the constitution, it's not an integral part of it, and it is strictly a transitory measure. Isn't that right, Mr. McNealy?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: That is right, Mr. President.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, I feel like this is my duty as a delegate to let my views be known; how I feel about this issue since I have been connected with the fishing industry for the last 23 years, both as a fisherman and also a little in the packing end of it in the later years. I have fished in Bristol Bay; I have fished with gill nets; I have fished over on the peninsula around Chignik; on boats with gill nets; seining and on traps. I have also fished over on Kodiak Island, and I also know that the traps are not all of our ills. We need to regulate other gears as much as traps. Now, I will clarify that a little bit. I doubt very much if there are very many that are more against traps than I am, but I don't know if an ordinance of this kind is the right thing. I was very much for Mr. Lee's idea to put in the constitution just a few words, "There shall be no fish traps", or something to that effect. But if this is the only way that we can get something in, or that is within the law and that is workable and not be a political football afterwards, I am going to vote for this ordinance.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. McNealy a question?

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

R. RIVERS: Did your Committee consider putting this question in the form of a resolution to the first legislature?

McNEALY: No, that wasn't -- as I remember it wasn't considered, at least not to the Territorial legislature. There was talk about a resolution to the Congress.

R. RIVERS: I am speaking of the first state legislature.

McNEALY: Oh, the first state legislature -- I believe not. I think all members of the Committee felt that the first state legislature would abolish them; the feeling was quite strong, Mr. Rivers, on the Committee. I think my answer to that is that possibly a referendum would be a good thing. There may be others on the Committee -- I see that Mr. Hurley has an intelligent look on his face and he might have the answer.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I guess this is one of the few times I do have an intelligent look on my face. My understanding, Mr. McNealy, was that there were definitely considered three methods of handling the matter when I was referred to us. It was, as I understand, referred to us with the recommendation that there might be a resolution, but we considered the matter as to whether it should be a resolution, whether it should be in the form of an ordinance, or whether we should report it out at all. And when I voted on that eight-to-one question, I was voting that it shouldn't be a resolution but should be in the ordinances.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, so there is no misunderstanding on my position on fish traps, I just wish to refresh the memories of those who have lived in Alaska since 1948. I handled the campaign for the fishermen against the fish traps, and, as you remember, that vote was eight and a half to one. Therefore, my sincerity, my interest in the elimination of fish traps I trust will not be questioned. Mr. President, the method as recommended by "Governor" Buckalew for the method of handling the elimination of fish traps I think is highly ill-advised, and, in case that the matter before us at the present time results in the defeat of that measure, then I shall introduce or request someone to introduce an amendment or substitute amendment which shall be in substance: "The first state legislature is hereby directed to abolish fish traps for the taking of salmon for commercial purposes in the coastal waters in the State of Alaska." This is a legislative matter; it is a highly emotional thing; it is 100 per cent political. I know how the people of Southeastern feel; I know how Frank

feels, and I know how the rest of you feel, and I feel just as deeply about it as they do, but let's do this thing in an orderly manner. Let's do this thing -- everything else we have done so far we have done in a logical manner. Now, let's not be carried away by this. We can accomplish this just as quickly, just as sensibly, in fact a lot better. Now, I should also like to point out that if we entertain Mr. Buckalew's present amendment, we will be complicating our job in Congress, and I must repeat again we have an end product to sell and I think that is terrifically important to us. Now let's not complicate our problem in Congress. We know very well that it would be political suicide for anyone to go to that first legislature and not be in favor of the immediate elimination of fish traps. This, I am sorry to say, I feel, is much of a gimmick. It is a swell publicity deal. I do not question the sincerity of the fishermen and of everyone else to eliminate fish traps, but let's do this thing in an orderly manner, like we are doing everything else.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I feel constrained to talk on this question. I think, in order to reach the heart of the question, we must review slightly what we have before us. I think the question before us should be whether or not we favor including in the constitution a clause actually eliminating fish traps. Now I have studied this matter of fish traps, and the last time was in 1949. At that time, there were 455 fish traps in Alaska. They were owned by 138 owners, practically all residents of the Pacific Northwest. At that time, they were taking between \$80,000,000 and \$100,000,000 a year in fish out of Alaska waters for a total catch, approximately one-half of which was caught by fish traps. They have, as we all know, seriously depleted the resource, but the question comes to my mind as to whether or not we are justified in taking an action here on this floor in this manner. I believe that it is not constitutional matter and I am going to try and tell you why. I have stood with -- firmly in the matter of putting in the constitution what we thought was basic and needed. I know something of the struggle that went into getting the control of the fisheries under our constitutional act placed in the new state, and I am very fearful that if we do this -- if we pass this in becoming effective immediately upon the acceptance of the state enabling act by Congress, that we will, in all probability, have one of two alternatives. They will either take the fish and the administration of the fisheries out of the constitution; they will either delay it maybe eight or ten years until their ten-year law, if they have one, goes into effect, or else in all probability they will set up some kind of a commission upon which we will have some kind of representation to administer the commercial fisheries. That is the problem as I see it. Now I have voted for the elimination of fish traps; I have worked hard for it;

but in the same breath I do not want to see us upset the possibility of statehood and the control of the fisheries by having in here some clause that possibly would be very difficult for the Congress to accept. And I can see as you can see that, if we get statehood, if we get the power of the fisheries, we have the absolute control of the fisheries within our state. Then we can take the action. But now, if we put this up them as a red flag before they give us statehood, I think we are asking them to take the fisheries out from under the new state and in that manner I am sure that the constitution would not be acceptable to the people of Alaska. I know the things are true that have been said here, and I appreciate the sincerity of every man that has said them, but in the same breath I feel that we should put the strongest form of words we could into a resolution, state our position, and pass it on to the first state legislature. I think we are approaching a problem here that will determine whether or not we can arise above the immediate emotions of the moment and act in such a manner that Congress will trust us, or whether we are going to allow our emotions to govern us to take an action which we will regret for a long time. I sincerely feel that; I feel that we should give this matter full thought; and as I said before, I don't think the question is one of whether we are for or against fish traps. The question is: do we want to put it in the constitution, do we want to make the constitutional ratification election a referendum on a law prohibiting fish traps as soon as we get statehood? To my way of thinking, it is an impossibility for those men sitting in Congress, 5,000 miles away, to view anything of the criticalness of the type of problem we have here and not to lean back and say, "Before these people get statehood they are starting to abuse the power." I feel that is the issue. It doesn't seem to me, and I feel sure that the men who have spoken here feel as I do, we know that the fish trap is an obsolete form of monopoly. We can look back and compare it to the old ranch days when they had thousands of acres of range land under their control and a few owners owned all of it and bred their cattle there. They had a grand monopoly on a large piece of grazing land and every year they took advantage of that, and as the time came when it became necessary to spread that resource out among more people, they had to limit the size of their pastures. They had to fence them. They had to raise higher grade cattle to get more beef so more people could participate, and that is what we all want. But I fear gravely that, if we do take this action, that we are going to strike a serious blow at statehood and, if we do take this action, I fear we are going to strike a serious blow at the control of the fisheries, which we now have in our enabling act. So, therefore, I must oppose this amendment -- or this ordinance rather -- coming on the floor, and support the amendment to strike it. I want to say this in closing, that I will go for a good strong resolution to the first state legislature to get busy. Now if we put this ordinance into effect, what happens? It says the police power of the state shall be used to enforce it.

There is a \$5,000 fine. How are we going to effectuate it? We have no administration within a department; we have no floating gear to get around to these traps and enforce it. The thing is inoperative, unworkable. It's a wonderful expression of an intense opinion on all of our parts, but I don't think it strikes at our problem and I fear if we put it in we are going to do ourselves a great deal more harm than good.

SMITH: Mr. President, might I ask Mr. Victor Rivers a question?

PRESIDENT EGAN: If there is no objection, you may ask your question.

SMITH: Mr. Rivers, do you think the Congress can enact any law affecting our fisheries which will be binding upon the state after admission?

V. RIVERS: I don't think so. I don't think that Congress will infringe upon our rights once they grant it to us. I am talking about the original enabling act, the act of admission, where they very well could. We had a definite struggle to get in that act the control of the fisheries. We now have it in the act and I fear that there is a very grave chance that this would be the reason for striking it or withholding statehood.

SMITH: Mr. President, I would like to ask consent, being as I have spoken once on this, to read just one sentence from the Senate report.

PRESIDENT EGAN: Is there objection? Hearing no objection, you may read it.

SMITH: The Senate report says, "Under Supreme Court decisions, control over the fisheries and wildlife within its borders passes to a new state upon its admission as an incident of statehood."

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

ROBERTSON: I would like to comment on the question. I endorse quite fully Delegate Boswell's view on this question. I don't speak on the merits or the demerits of fish traps, but I do think sincerely that this is not constitutional matter. I think it is entirely legislative matter and I have little doubt, relying upon the views of the delegates here tonight, that the first state legislature would abolish fish traps but they would also make some provisions for it -- how the fish trap owners would be compensated, if they are entitled to compensation; some period of time as to when they would be closed, and I think this matter ought to be left up entirely to the legislature.

LEE: Mr. President, may I address a question to Mr. Robertson?

PRESIDENT EGAN: Mr. Lee, you may ask the question if there is no objection.

LEE: I wonder if you are familiar with any payments ever being made to any fishing boats that have been closed out of fishing areas?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I know this, Mr. Lee, and I believe that you and Mr. Peratrovich will agree with me, that the great competition among the fishermen, the purse seiners, of Southeastern Alaska today, is not so much the fish traps but the purse seiners with the big boats come up from Ketchikan I mean from Puget Sound, and they even come up from California, and today it's the amount of mobile gear in our waters that is destroying the catch of the local fishermen. They fish more intensely than many of our local fishermen do. They have bigger outfits and we have no protection against them at all --

LEE: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

LEE: I am sorry to interrupt you, Mr. Robertson. I know you are familiar with the law that states that no boat over 50-foot keel length is allowed to fish in Alaskan waters.

ROBERTSON: That is right, but they still come up with all these boats and they fish there. They are fishing out of Mr. Peratrovich's country in the summertime; they are fishing up in Icy Straits; they are fishing up in Chatham Straits. We have got so many boats down here, I understand -- of course I am not familiar with it in Cook Inlet -- but today a local fisherman barely has a chance, and I have no doubt that is one of the troubles over in Mr. Emberg's country -- in Bristol Bay. They have too many boats with too much mobile gear.

LEE: Well, the point I was trying to get was that you mentioned that they brought up so much bigger boats from the states.

ROBERTSON: Well, probably the word "big" might be mistaken, they are better equipped and they are more efficient in their fishing and they do fish harder. You know that, Mr. Lee.

LEE: No, sir. I question anybody ever fishing any harder than I do.  
(Laughter)

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

PERATROVICH: I just want to clarify a statement Mr. Robertson made there.



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

PERATROVICH: It is true that we are getting some of their larger boats for outside fishing, off Cape Addington and Icy Straits, but I will also add that they don't find it profitable. They are there about a week and then go back South. Why is that? They can make better money there for the simple reason that they were farsighted enough to eliminate their traps about 15 years ago and have built up their run. Some of our boys, those that can afford it, even have to go down there now to make a living. They can't do it up here. That is the reason we would like to get the traps out.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, may I address a question to Mr. Buckalew through the Chair?

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

RILEY: Mr. Buckalew, could you differentiate for me, and others perhaps, the schedule provisions with the constitutional coverage per se, constitutional matter as we normally think of it. How does that differ from a schedule provision? I think you touched on this earlier, but I think the ensuing discussion might warrant its mention again.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think, in fairness to the Convention, Delegate Lee and some of the other members on the Committee discussed for many weeks whether it was a proper subject to even put in a schedule. We rejected the idea that it was proper to go into the constitution itself, and after an examination of the law and the various types of ordinances that have been provided in other schedules, this seemed to be more than proper to put it in our schedule here in Alaska. It is not a part of the constitution; it is an appendage that is added to it and just takes care of the transitory or transitional measures, and I don't think you could say in any wise it's a part of the constitution. I don't know whether that answers your question or not.

RILEY: Thank you. One other question, if I may.

PRESIDENT EGAN: If there is no objection.

RILEY: Assuming that the pending amendment is defeated, there is every possibility is there not that the language which may be objectionable in your amendment might then be corrected or changed?

BUCKALEW: I'd hate to see much of the language stricken, but if that is the will of the body, I guess it has to be done.

RILEY: It's certainly in the amendment process though?

BUCKALEW: It's in the amendment process, certainly, subject to amendment.

HELLENTHAL: May I ask Mr. Riley a question?

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

HELLENTHAL: Do you have amendments to propose?

RILEY: It wouldn't be in order at the moment, and I have none now, no.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? If not, Mr. Boswell, you might close.

BOSWELL: Well, in closing, I wish to make it perfectly clear that I have no brief for fish traps and I certainly will agree with anything Mr. Lee, Mr. Emberg, Mr. Smith, and Mr. Peratrovich have said regarding the abolishment of fish traps. The only thing that I do feel rather strongly about is that this is not the proper way to go about it. I would much rather see this handled as a resolution by the first legislature, and, barring that, if we do have something like this, I would like to see it set up in a way that it would be done in an orderly manner so we will not find ourselves in a bad position when we become a state.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I would like to direct a question to Mr. Boswell through the Chair.

PRESIDENT EGAN: If there is no objection.

McCUTCHEON: Mr. Boswell, do you have a resolution prepared on this matter?

BOSWELL: I have not.

McNEES: May I ask Mr. Boswell a question?

PRESIDENT EGAN: You may.

McNEES: Would you prepare such a resolution, Mr. Boswell?

BOSWELL: I would be glad to work on one.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment --"

LEE: I request a roll call.

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

CHIEF CLERK: "Strike Sections 24 and 25 of Proposal 17/a."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll. The delegates will please refrain from speaking when a person's name is called.

ROSSWOG: I though we were voting on his motion to strike the matter.

PRESIDENT EGAN: That is right.

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

Yeas: 19 - Armstrong, Barr, Boswell, Cooper, Cross, Davis, Doogan, Hilscher, Johnson, Laws, Londborg, McNealy, Metcalf, Reader, R. Rivers, V. Rivers, Robertson, Walsh, Wien.

Nays: 30 - Awes, Buckalew, Coghill, Emberg, H. Fischer, F. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Sweeney, Taylor, White, Mr. President.

Absent: 6 - Collins, McLaughlin, Nolan, Stewart, Sundborg, VanderLeest.)

HERMANN: I wish to change my vote to "no".

PRESIDENT EGAN: Mrs. Hermann changes her vote to "no".

McNEES: I would like to change my vote to "no" also.

PRESIDENT EGAN: Mr. McNees changes his vote to "no".

CHIEF CLERK: 19 yeas, 30 nays, and 6 absent.

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

BUCKALEW: Mr. President, since we don't have numbers on the amendment, but one, two, three, four, five, six lines up, I would like to strike the language, "pending the establishment of the first state legislature" and retain the comma. I ask unanimous consent.

PRESIDENT EGAN: Page 1?

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BUCKALEW: It's on page 1.

SMITH: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Smith.

SMITH: On the copy that I have it is on line 1 of page 2.

PRESIDENT EGAN: The amendment that was adopted -- as offered by Mr. Buckalew -- is on sixth line from the bottom.

HELLENTHAL: Point of information. Could we refer to it as the amendment of January 25? I think then we will know what everyone is talking about at all times.

BUCKALEW: That is perfectly agreeable with me. The amendment of January 25, then. Mr President, sixth line up, starting with the word --

PRESIDENT EGAN: It is the 26th, so you can change the date. It says on the amendment the 25th, but, it is the 26th.

BUCKALEW: Then, six lines up, strike the language, "pending the establishment of the first state legislature", and move the comma back up to Alaska.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that the amendment be adopted. Mr. Hellenthal.

HELLENTHAL: Point of information. I have been working here with an amendment dated January 25.

PRESIDENT EGAN: It says January 25, but this is the 26th today.

BUCKALEW: He was referring to the date on the amendment, Mr. President.

HELLENTHAL: I should like perhaps to have the delegates refer to the date on the paper so we will all know what paper we are talking about, and that is the 25th.

PRESIDENT EGAN: Mr. Hellenthal, it has become now a part of Committee Proposal No. 17/a. Mr. Buckalew.

BUCKALEW: I ask unanimous consent that the language be stricken.

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

UNIDENTIFIED DELEGATE: I'd like to ask you, why did you do that?

UNIDENTIFIED DELEGATE: I'll raise objection, Mr. President.

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

BUCKALEW: I so move.

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

EMBERG: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Emberg. Mr. Buckalew.

BUCKALEW: The language -- when I first started working on the proposal, I was trying to tie it in with the Tennessee Plan, and then subsequent changes in the preamble of the schedule makes the language unnecessary, and it is confusing. That is the reason why I wanted it stricken.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It appears to me that by striking this terminology we, in effect, make it a part of the constitution. Despite the fact that this may appear to be a transitory provision, it certainly doesn't make anything transit of it when it states there is an absolute prohibition. There is no "pending the first state legislature" or anything else.

BUCKALEW: Mr. McCutcheon, it is in the schedule, which means it would be a proper subject for the legislature to handle. If it was in the body of the constitution, you would have to amend it, so it is a transitional measure in that sense.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, if I recall Mr. Buckalew's statement correctly during the argument on the Boswell amendment, I recall him saying that the purpose of this proposal was to prevent the use of fish traps after we became a state, and, if the first legislature did nothing about it, that then this matter would still stay in full force and effect, which is vastly different to my way of thinking than what he says now, that as soon as we do become a state, this language would no longer be effective because it is in the schedule and under the transitory provisions. I, for one, would like to know what position he expects to stand on.

BUCKALEW: Mr. President, I don't think I am standing in an inconsistent position, because the state legislature can still act on it and there are certain transitional measures that are in the schedule that will probably be in effect for years and years and years, and as I understand the law, if the legislature never acted on this, fish traps from then on would probable be abolished by this transitional measure.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, in line with the discussion on the proposed amendment, I wonder if Mr. Buckalew would explain here -- on all the other transitional provisions or ordinances in effect, and that others are termed "by ordinance" or were in Committee and here, this is called a "proposed constitutional provision". Does the use of the word "provision" have any effect on a "provision" as differentiated from an "ordinance"?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: As I recall from the cases I have read, using the term "provision", you have broader latitude in the subject matter that you can handle in a schedule, and I was a little fearful that if I used the term "ordinance", it might be grounds for attack in court. And I suspect that, depending upon when we are admitted, this particular ordinance will probably be subject to a lot of litigation. I just wanted to be sure that it would stand up. In this form I think it will serve the purpose for which it was drawn.

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 opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 26 - Awes, Buckalew, Coghill, Cross, Emberg, V. Fisher, Gray, Harris, Hellenthal, Hinckel, Kilcher, King, Knight, Laws, Lee, McCutcheon, Marston, Nerland, Nordale, Peratrovich, Smith, Stewart, Taylor, Wien, Rosswog, Mr. President.

Nays: 24 - Armstrong, Barr, Boswell, Cooper, Davis, Doogan, H. Fischer, Hermann, Hilscher, Hurley, Johnson, Londborg, McNealy, McNees, Metcalf, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Sweeney, Walsh, White.

Absent: 5 - Collins, McLaughlin, Nolan, Sundborg, VanderLeest.)

PRESIDENT EGAN: Did the Chief Clerk get Mr. Stewart's vote?

STEWART: I believe not. I vote "yes".

CHIEF CLERK: He was absent when I --

PRESIDENT EGAN: Mr. Stewart votes "yes".

CHIEF CLERK: 26 yeas, 24 nays, and 5 absent.

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

V. FISCHER: I would like to ask unanimous consent for a two-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 24 of Committee Proposal No. 17/a? Mr. Buckalew.

BUCKALEW: Mr. President. I would like to offer one more amendment and then I will be through. Looking at the amendment of January 25, 1956, at the bottom of the line, strike "by a fine not to exceed \$5,000 and", so that it will read, "Violation of this section shall be punishable by confiscation of the fish traps."

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

BUCKALEW: I so move the adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the amendment and asks unanimous consent. Is there objection?

UNIDENTIFIED DELEGATE: Could we have it read again, please?

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

CHIEF CLERK: "Last line on page 1, strike 'by a fine not to exceed' and on page 2 strike '\$5,000 and', so that the sentence reads, "Violations of this section shall be punishable by confiscation of the fish trap.'"

PRESIDENT EGAN: Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 24? If not, are there amendments to Section 25? Mr. Kilcher.

KILCHER: Is it in order to make amendments to Section 24?

PRESIDENT EGAN: It is, Mr. Kilcher.

KILCHER: I move and ask unanimous consent that the last sentence of Section 24 be stricken.

PRESIDENT EGAN: Mr. Kilcher moves and asks unanimous consent that the last sentence of Section 24 be stricken. Will the Chief

Clerk please read the amendment, the sentence that is to be deleted.

CHIEF CLERK: "The sentence, 'The police power of the state shall be used to the extent necessary to enforce this section.' shall be stricken."

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Kilcher?

DOOGAN: I object.

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

KILCHER: I so move, Mr. President.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the amendment, seconded by Mr. Knight. Mr. Kilcher.

KILCHER: I think the language is superfluous. If we want these fish traps confiscated, there certainly will be somebody there to do the job, and it makes the ordinance longer than necessary and uses language that I think is too strong for sensitive nerves.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I certainly will support the amendment and I think we should try to make the best possible language and sense out of these things. I voted on the opposite side of this, not because I was not in favor of the action, because I felt there was a different route to accomplishing this, but this is now becoming amended to the place where I think it isn't as offensive as it was. I certainly will support deleting this sentence.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to know why Mr. Buckalew or whoever wrote this put that in there.

KILCHER: Point of order -- that is not the question at hand.

PRESIDENT EGAN: Well, Mr. Sundborg asked --

SUNDBORG: What is the purpose of having that in there?

PRESIDENT EGAN: Mr. Sundborg, if there is no objection, you may ask the question.



SUNDBORG: It was put in by some member of the Committee or by the Committee. Is it necessary or is it superfluous?

BUCKALEW: I probably got carried away with myself, Mr.

Sundborg. I think that the language can be stricken.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All of those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments for Section 24? Mr. Johnson.

JOHNSON: May I ask Mr. Buckalew a question?

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

JOHNSON: Mr. Buckalew, in connection with the first part of this section where it says, "If this constitution shall be accepted by the electors," are you referring there to the election which will be held in April of this year?

BUCKALEW: Yes.

JOHNSON: And if the majority should adopt the constitution -- or ratify it -- and adopt the referendum which we propose, do you say that "the following shall become effective", do you mean immediately after this election that this language will become effective?

BUCKALEW: It will become effective when the President issues his proclamation.

JOHNSON: Well, then, why do you say that "If this constitution be accepted by the electors, the following shall become effective..." How do you propose to bring that about? That is what I am interested in.

BUCKALEW: Well, the constitution would have to be accepted by the people.

JOHNSON: But that doesn't make it effective.

BUCKALEW: No, it won't become effective until the President issues a proclamation authorizing us to become a state; that is when this ordinance will become effective.

JOHNSON: Then we would have that power anyway, wouldn't we?

BUCKALEW: That is true -- that is true.

JOHNSON: Then what is the purpose of this?

BUCKALEW: The purpose of this ordinance -- as I said before -- the minute the President issues the proclamation the traps are illegal. We don't have to wait 30 days, 40 days, or six months for the legislature to get around to acting.

PRESIDENT EGAN: Are there other proposed amendments for Section 24? Mr. Hellenthal.

HELLENTHAL: I would like to ask this question of Mr. Buckalew. Mr. Buckalew, would you object to using the language "ratified by the people" rather than "accepted by the electors" in Section 24?

BUCKALEW: I can't see that it makes any difference, Mr. Hellenthal.

HELLENTHAL: I notice that the Enabling Act, Chapter 46 of the 1955 legislature, uses the words, "ratification of the constitution by the people".

BUCKALEW: I figured Style and Drafting could probably take care of it but I wouldn't have any objection to it.

HELLENTHAL: I move and ask unanimous consent that the word "accepted" be stricken and the word -- if you feel, Mr. McCutcheon, that this is a matter for Style and Drafting, I withdraw my motion.

MCCUTCHEON: I will propose a question, Mr. President. I would ask whether or not the Style and Drafting Committee had been discharged yet or not?

PRESIDENT EGAN: The Style and Drafting Committee is a full-functioning Committee as it will be until the time that this Convention adjourns sine die. Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Sundborg a question? Do you feel that that change would be a proper subject for your Committee?

SUNDBORG: I feel it would be a proper subject for us to consider. I can't say what the Committee would do; we will consider it, Mr. Hellenthal.

HELLENTHAL: You wouldn't regard it as a matter of substance?

SUNDBORG: No, I would not.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: May I ask permission to ask Mr. Buckalew -- ?

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

McNEALY: Mr. Buckalew, what would you say is the benefit, if any, of the words in the indented part there, starting out "as a matter of immediate public necessity" and down to the second time "Alaska" is used? What is the purpose or necessity for the words?

BUCKALEW: The only reason that language was inserted, Mr. McNealy, is to justify the use of the proposition in the schedule, and it set out that it is a matter of immediate public necessary and that is the reason the language should be left in here. Otherwise, if it wasn't a necessity, we could wait until the first state legislature, and I think the language serves a necessary purpose.

PRESIDENT EGAN: Are there amendments? Mr. Johnson.

JOHNSON: May I direct another question to Mr. Buckalew?

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

JOHNSON: Mr. Buckalew, we have, I believe, in some other part of our constitution some language which says that no property shall be taken from a citizen without just compensation. Do you believe that some provision should be made for repayment for the taking of these traps under this proposal?

BUCKALEW: I certainly do not, Mr. Johnson, because the courts of Alaska have ruled time and time again that there is no property right in fishing, that it is an annual privilege; and I don't know of any legal question that could be raised, because you don't even have a right from year to year in a trap site. I think even Judge Folta has held that it is an annual privilege. I believe Mr. Robertson will bear me out on that.

JOHNSON: I thought I understood Mr. Eldor Lee to say that he couldn't even acquire a trap site because they were all held by other people.

BUCKALEW: I advised you of what my understanding of the law is and I think it is settled. Now, if you want to ask Mr. Lee about that, I don't know anything about it.

JOHNSON: Well, this is your amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: If I might say a word on that, the trap sites are held by the parties who hold them under a series of regulations which make it impossible for any more than a certain number to hold

those sites. They are actually open to anyone. It's the economic feature which prevents anyone from going in and taking over those trap sites.

McCUTCHEON: Point of order, Mr. President. What is the matter at issue?

PRESIDENT EGAN: Mr. McCutcheon, there is no matter at issue. A question was asked and the delegates have been attempting to answer it. Are there other amendments for Sections 24 or 25? Mr. Taylor.

TAYLOR: Mr. President, it seems to me like we have been talking about an ordinance, and in looking this over, it seems to me that we have a constitutional referendum instead of an ordinance -- a referendum will be taken on this subject.

PRESIDENT EGAN: Mr. Taylor, are you offering an amendment?

TAYLOR: I am going to offer an amendment. I am going to move that the last five lines be stricken and the following inserted in its place: "Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon be adopted?" Striking "for commercial purposes until otherwise", as I feel that it would be superfluous because nobody would ever build a fish trap for pleasure. (Laughter)

PRESIDENT EGAN: The Convention will please come to order. Mr. Taylor moves the adoption of the proposed amendment. Is there a second?

MARSTON: I second that motion.

PRESIDENT EGAN: Seconded by Mr. Marston. Mr. Lee.

LEE: I ask unanimous consent that we have a one-minute recess.

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

#### RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the amendment as proposed by Mr. Taylor. Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon be adopted?"

PRESIDENT EGAN: It has been moved and seconded. Wasn't it moved and seconded?

CHIEF CLERK: No.

PRESIDENT EGAN: I thought Mr. Marston seconded. Mr. Stewart.

STEWART: What was that clause?

CHIEF CLERK: (Answer not audible.)

PRESIDENT EGAN: We have before us the motion as it was presented by Mr. Taylor.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: Wasn't it a motion to strike and substitute?

UNIDENTIFIED DELEGATE: Yes.

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

CHIEF CLERK: "Strike the last five lines on page 2 and insert the following: 'Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon be adopted?'"

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, is his new amendment amendable right now or not? I would like to move that the words "for commercial purposes" be inserted in there.

TAYLOR: I would include the insertion of the words "for commercial purposes".

PRESIDENT EGAN: If there is no objection the words "for commercial purposes" are not being deleted under the amendment. The Chief Clerk will now read the proposed amendment.

CHIEF CLERK: "Strike the last five lines on page 2 and insert in its place: 'Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon for commercial purposes be adopted?'"

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I favor this amendment. Our handbook here which contains a copy of the act of the last legislature says, "The Constitution and proper ordinances or such ordinances as the Constitutional Convention adopts may be referred to the public for ratification." So I would rather have this called a consti-

tutional ordinance than a constitutional provision.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I ask unanimous consent the amendment be adopted.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. Hilscher.

HILSCHER: I have an amendment to Section 24. The last line on page 1, starting with "violations of this section shall be punishable by confiscation of the fish traps" -- strike that sentence.

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

ROBERTSON: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Robertson, that the last sentence in Section 24 be deleted. Mr. Buckalew.

BUCKALEW: Mr. President, I am sure --

HILSCHER: May I say something?

BUCKALEW: Go right ahead.

HILSCHER: Do I have the floor?

PRESIDENT EGAN: You may have the floor, Mr. Hilscher.

HILSCHER: "Violations of this section shall be punishable by confiscation of the fish traps." The objections that we will hear probably are that we have to have that in there in order to take care of the police powers of the state. The police powers are already inherent in the state and by the elimination of that language it will ease the job that we have to do to sell statehood to Congress.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: If I may speak before Mr. Buckalew closes, and that is, the only thing you can confiscate is contraband. You can't confiscate property. Now those traps might have some salvage value. I am afraid we are getting into trouble if we talk about confiscating those fish traps so I am going to support the amendment.

PRESIDENT EGAN: Mr. Lee.

LEE: I am not familiar with the problems that would be involved in the legal matter concerning this, but I do know that if a fishing boat violates a law, his equipment is susceptible to being confiscated immediately, and it seems that this would be similar, I don't know. Maybe there is something I can't see about it, between a trap and a seine or something like that.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Well, if this amendment carries, we might as well forget it because it's meaningless. There would be no point in putting this ordinance out for a separate vote of the people. That is the purpose of sending it out to the people, so that we can get the authority to exercise the police power. Now, if you are not going to provide for confiscation, it wouldn't have any force or effect at all. It would be useless and a waste of time.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: You could provide for confiscation by an action in rem in the courts, and you also can confiscate the fish that were in the traps. They would be contraband because they were caught unlawfully with the traps, but they can't take a boat and say "this is ours now". The government can't do that and the state can't do it because that is taking property without due process of law. If you catch one, shackle the gear out in the water and the illegal fish -- it is only 50 yards long, you have still got to bring an action in rem in the district court, which is a libel action, to take that piece of gear and keep it and sell it. You cannot take it and say this belongs to the government or to the state. They can take and hold them all right, just the same as when you catch anybody committing a crime or a felony and hold them until they get released. You can put up a bond and get your boat released.

BUCKALEW: Mr. Taylor, with this language, you still have to use the courts. You still just can't go out and grab them.

TAYLOR: It's a word I don't like to use too much but the legislature could implement this. (Laughter)

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

V. FISCHER: I personally do not see eliminating this language unless we substitute something else in lieu. This provision is designed primarily to take care of the period from the time we become a state until the time that our first legislature could meet and pass the necessary legislation. Unless we declare this a felony or have some fine provided or do something, the rest of it means exactly nothing, so they are illegal. The point is we have a governor established; we have an executive who has the executive powers. This would provide for violations, I mean this

would still say that the taking of salmon is prohibited. It doesn't say what kind of a violation it is or anything. To me, strictly as a layman, that section would mean nothing and I certainly would want to have a very thorough explanation of what powers would be left if nothing else is substituted for the sentence.

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

BARR: May I ask a question of Mr. Buckalew?

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

BARR: Mr. Buckalew, I am working for the state here and there is a question in my mind whether it's desirable for the state to confiscate the fish traps. Now, after the state takes it over, what becomes of it? Wouldn't they be obliged to go to a lot of expense to pull the piling as a navigational hazard?

BUCKALEW: Mr. Barr, that is really not the problem. The only thing the state would do would be to see that the traps cease fishing and probably just leave the piling out there.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Fischer a question?

PRESIDENT EGAN: You may, Mr. Hellenthal.

HELLENTHAL: Mr. Fischer, do you think that if provision were made that violations of the section -- or could it be possible to say, "Adherence to this section shall be enforced by injunction, mandatory injunction, restraining orders" -- would that remove your objections?

V. FISCHER: I don't know if that would be sufficient. I have a feeling that it should be equivalent to a law for this interim period to provide the actual means and charge under which somebody could be taken to court, fined, or some kind of penalty imposed. I may be completely wrong, but that is the way it seems to me.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: May I answer Mr. Fischer's question.

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

TAYLOR: Mr. Fischer, we have a very adequate remedy for cases like that. Now, according to the ordinance, it would be prohibited to operate a fish trap. If the trap was operated or operating, the owners of the trap can be taken into court, and



an order can be issued restraining them from operating the trap. If they violate the injunction, then they can be brought for contempt of court and given a jail sentence or a fine. You have the method of punishment.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I am firmly of the opinion that "confiscate" is not the word that should be used there, and I don't think it is possible to confiscate, in the literal meaning of the word, confiscate a fish trap, and I think that some better language had better be worked out. You can destroy it certainly, but there is a property value there even though the man never owns a trap site. There is a property value in the trap itself, and the investment he has in it, and the money he spends to build it and to equip it. I think all of that would be subject to compensation, and I don't think you can confiscate it, and what would you do with it if you did? You can't haul it away; you can't sell it; you can't fish with it because trap fishing is being barred. It's a very poor provision in the act.

PRESIDENT EGAN: Mr. Smith.

SMITH: May I ask Mrs. Hermann a question? Mrs. Hermann, is a gun property?

HERMANN: Certainly.

SMITH: I know it for a fact that the Fish and Wildlife Service has made a practice of confiscating the guns used in the illegal taking of game. How is that accomplished?

HERMANN: Well, that is accomplished by confiscating the gun, but try and confiscate a fish trap that is the size that we have agreed they are.

PRESIDENT EGAN: Mr. Hellenthal has been trying to get the floor.

HELLENTHAL: I just want to say that I think our difficulty here is that we are trying to legislate in a constitutional ordinance, and I ask for a recess of a couple of minutes to see if we can approach it from another angle.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. We have Mr. Hilscher's proposed amendment before us at this time. Is there further discussion? Does anyone else want to be heard? If not, Mr. Hilscher, you may close the argument.

HILSCHER: Mr. President, a great deal of legal discussion has gone on in this last recess on what should be done in case that last sentence is stricken. Now, it is doubtful that we can arrive at a full and complete settlement of this matter at this time. Yet I would like to point out a couple of items which should be under consideration in whatever action we take on this amendment. As I understand it, the principal value of a fishing location is not the fish trap itself, but it is the location of the trap at a particular point, a particular cove, or at some location where salmon congregate. That location has a definite value. How you are going to confiscate that location on the map of Alaska is a question which must be settled. Now, if the members here are agreeable to arriving at a better wording of this amendment that will result as a result of my withdrawing my motion, I am perfectly agreeable to withdrawing the motion, provided that an attempt will be made to arrive at a better understanding of it.

PRESIDENT EGAN: Do you ask unanimous consent that your proposed amendment be withdrawn, Mr. Hilscher? Is that your desire?

HILSCHER: May we have a 30 second recess?

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

HILSCHER: I ask unanimous consent to withdraw my amendment.

PRESIDENT EGAN: Mr. Hilscher asks unanimous consent that his amendment be withdrawn. Is there objection? Hearing no objection, the proposed amendment is ordered withdrawn. Mr. Buckalew.

BUCKALEW: Mr. President, in view of the amendments that have already been adopted and offered by Mr. Taylor, I would ask unanimous consent in line 3, to strike the word "proposition" and insert the word "ordinance"; and in line 4, to strike the word "proposition" and insert the word "ordinance"; and then to further clarify the matter, in line 4, I would like to add this language: after the word "effective" add "upon the entry into force of this constitution", and ask unanimous consent.

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

CHIEF CLERK: "On lines 3 and 4, change the word 'proposition' to ordinance'; and on line four, after the word 'effective', add the following words: 'upon the entry into force of this constitution'."

PRESIDENT EGAN: Is that your wording, Mr. Buckalew?

BUCKALEW: That's the wording, Mr. President.

PRESIDENT EGAN: What is your pleasure?

BUCKALEW: I move its adoption.

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

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Mr. Hellenthal.

HELLENTHAL: I don't know what that language means.

PRESIDENT EGAN: Is there a second to Mr. Buckalew's motion?

KNIGHT: I'll second it.

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

HELLENTHAL: What date is that?

BUCKALEW: I can tell you the time that it would take place. The constitution would enter into force after the governor was elected and the legislature was elected and the President issued the proclamation. You would have your governor and the legislature and the returns would be certified and I think the minute the governor certifies the election then the constitution goes into effect.

HELLENTHAL: Then would there be any need for this if it is going to be after the first legislature is elected? I thought that you had been telling us that this was for the period prior to the election of the first legislature.

BUCKALEW: No. Your governor is going to take his office prior to the time the legislature convenes. You have all your state officers. The elections would be certified to cover the time from the date the proclamation is issued until the state legislature convenes and acts on the subject.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: That would be about one month in the middle of the winter.  
(Laughter)

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

V. RIVERS: Mr. President, I ask the privilege of the floor for discussion on this matter.

PRESIDENT EGAN: If there is no objection, Mr. Rivers, you may have the privilege of the floor.

(Mr. Victor Rivers spoke for a few moments under privilege of the floor.)

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: In my opinion, this Convention wouldn't have the authority to put a referendum on fish traps out to the people, because it wouldn't be a necessary part of the Convention. This is part of the schedule. This is a subject which is within our authority. We have no authority to require the governor to put another referendum on fish traps on the ballot. I mean, they can strike it before we got started.

PRESIDENT EGAN: The question before us is the proposed amendment as offered by Mr. Buckalew. The question is, "Shall the proposed amendment be adopted by the Convention? All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments? Mr. McNealy.

MCNEALY: In Section 25, where it states, "shall the proposed constitutional ordinance", I move and ask unanimous consent that the word "proposed" before "constitutional" be stricken. It will not be a "proposed ordinance" if it is adopted by this Convention. It will be an "ordinance".

PRESIDENT EGAN: Mr. McNealy asks unanimous consent that the word "proposed" in the first line of the question that will be on the ballot be deleted. Is there objection to deleting the word "proposed" in that question? Hearing no objection, the amendment is ordered adopted. Are there other amendments to Sections 24 or 25? Mr. Armstrong.

ARMSTRONG: I thought there would be an amendment after Mr. Hilscher withdrew his suggestion on confiscation of fish traps. I thought there was to be additional words that would be brought in, and that was why you withdrew your amendment.

HILSCHER: That is correct.

ARMSTRONG: Does anyone have the wording that you suggested?

PRESIDENT EGAN: Is there such an amendment to be offered at this time?

HILSCHER: May we have a two-minute recess and see if we can resurrect it.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments for Sections 24 or 25? Mr. Buckalew.

BUCKALEW: Mr. President, we seem to have a disagreement here on the violation provision. I would like to ask unanimous consent to put this over until a time certain, and give us a chance to work the penalty provision out that would be acceptable to the body.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent --

V. RIVERS: I rise to a question on that. I'm wondering if the Committee, if they do have this time certain, will consider the fact that all these fish traps are governed by the leased land which is part of the upland, and I wonder if, when the Territory becomes a state, not having jurisdiction over any lands and that part not being withdrawn, just exactly how far our jurisdiction would extend? In our clauses here, we have accepted all these lands subject to existing leases and so forth. I am wondering what the immediate effect would be, and I hope the Committee will keep that in mind when they start working out their enforcement clause.

BUCKALEW: We will keep that in mind, Mr. Rivers.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, at the point of saving time, I wonder if I might direct a statement through the Chair to any of the legal members here, if this is carried over until tomorrow, Mr. President, to consider that the only right that we have to draw ordinances in this Constitutional Convention and which has been considered by part of the Committee is under the enabling act calling this Convention, and, if the attorneys and others are interested, before tomorrow we will consider this legal proposition very seriously, because the language of our Act says the Convention shall have the power to make ordinances and take all measures necessary or proper in preparation for the admission of Alaska as a state of the Union, and I can read nothing into that, and it was based upon that particular section, Mr. President, that we will probably attempt to advance the Tennessee Plan because that will advance statehood. If it can be read into this that the fish trap ordinance will advance statehood, then the ordinance will be legal. But I wish those members interested

would consider it overnight. It is a serious legal proposition.

PRESIDENT EGAN: Is there objection to Mr. Buckalew's unanimous consent request that the consideration of Committee Proposal No. 17/a --

METCALF: I object.

PRESIDENT EGAN: Objection is heard. Did you move, Mr. Buckalew?

BUCKALEW: I so move.

PRESIDENT EGAN: Mr. Buckalew so moves. Is there a second?

EMBERG: I second it.

PRESIDENT EGAN: Seconded by Mr. Emberg that the proposal be held over until a later date. All in favor of holding the proposition over until a later time will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposal is ordered held over. Mr. McNees.

McNEES: At this time I would like to give notice of reconsideration, having voted on the prevailing side on the Boswell amendment, giving notice of reconsideration of my vote tomorrow.

PRESIDENT EGAN: You voted "no" on that?

McNEES: Yes, I did, sir.

PRESIDENT EGAN: Mr. McNees serves notice of his intention to reconsider his vote on the Boswell amendment.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal No. 8/a on resources, has compared it with the original and find it correctly engrossed. In enrolling it, there were two sets of enclosing commas that were inadvertently left out but I made note of those for the enrolling committee rather than send it back to the boiler room, and I hope that will be acceptable to the delegates in that fashion. The enrolled copies will be placed on the desks this evening, and I move the adoption of the committee report.

PRESIDENT EGAN: Mrs. Sweeney moves the adoption of the report of the Committee on Engrossment and Enrollment. Is there objection?

RILEY: I second the motion.

SWEENEY: I ask unanimous consent.

PRESIDENT EGAN: Mr. Riley seconds the motion. Unanimous consent is asked. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee is now ready to make the report which we passed over earlier on our calendar.

PRESIDENT EGAN: Mr. Sundborg, before you proceed, Committee Proposal No. 8/a is referred to the Committee on Style and Drafting. Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting is now prepared to make the report on amendments to the preamble and declaration of rights which we passed over earlier.

PRESIDENT EGAN: Article I, Article on Preamble and declaration of rights.

SUNDBORG: The report, Mr. President, is on Section 16, which by unanimous consent -- Section 18 -- which by unanimous consent was recommitted to our Committee last night with instructions to bring out new language, and the proposed new language is on the desk of the Chief Clerk and copies are being distributed now to delegates.

PRESIDENT EGAN: The Chief Clerk will please read the committee report.

CHIEF CLERK: "Strike Section 18 and substitute the following: 'In civil cases where the amount in controversy exceeds two hundred fifty dollars, the right of trial by jury is preserved to the same extent as it existed at common law. The legislature may make provision for a verdict by not less than three-fourths of the jury, and in courts not of record, may provide for a jury of not less than six or more than twelve.'"

SUNDBORG: I move the adoption of the amendment.

UNIDENTIFIED DELEGATE: I second the motion.

UNIDENTIFIED DELEGATE: We don't have them in the back.

PRESIDENT EGAN: We'll hold that motion up until we have them in the back. Something must have happened to the President's copy of Article No. I -- not the amendments, but the article itself -- Style and Drafting report. What is your pleasure, Mr. Sundborg?

SUNDBORG: Mr. President, I move for the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the proposed

amendment. Is there a second?

TAYLOR: I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment as offered by the Committee on Style and Drafting be adopted. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: We have two additional committee amendments to Article I which we would like to move at this time.

CHIEF CLERK: "Section 3, page 2, line 1, after the word 'denied' insert 'the enjoyment of'."

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

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

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Hellenthal.

JOHNSON: I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Is there another amendment? The Chief Clerk will please read it.

CHIEF CLERK: "In the preamble, fourth line after the word 'liberty' add the words 'within the Union of States'."

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

SUNDBORG: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment. Do you ask unanimous consent, Mr. Sundborg?

SUNDBORG: I will ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection? Hearing no objection the amendment is ordered adopted. Mrs. Hermann.

HERMANN: Mr. President, I ask that the record show that I do not approve of either of these amendments.

PRESIDENT EGAN: You offered no objection but you just wanted the record to show it?



HERMANN: I offer no objection.

NORDALE: I'll join Mrs. Hermann in those sentiments.

PRESIDENT EGAN: Mrs. Hermann and Mrs. Nordale wish the record to show that they do not approve of these two amendments but they offer no objection. Are there other amendments or questions relating to Article I, the article on the preamble and declaration of rights? Mr. Victor Rivers.

V. RIVERS: Mr. President, I will move and ask unanimous consent that we consider at this time my motion to rescind our action on Mr. Barrie White's amendment to the preamble.

PRESIDENT EGAN: Mr. Victor Rivers moves that the Convention at this time rescind its action on the amendment offered by Mr. Barrie White to the preamble of this article. Is there a second to the motion?

COOPER: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Cooper. Mr. Victor Rivers.

V. RIVERS: Mr. President, I bring this matter back on the floor because we spent some two-and-a-half hours on that. The original preamble was authored by 12 members of this body jointly; there is no individual pride of authorship. It was voted for by 49 of the members of this body, and 4 absent, and 2 dissenting. I feel that in context there has been a material change in the body -- or rather, in the intent, at least, of this body by the amendment offered by the Style and Drafting Committee. For that reason I move this rescinding motion at this time.

PRESIDENT EGAN: Now, would the Chief Clerk please read the proposed amendment that had been offered by Mr. White.

CHIEF CLERK: "Strike the preamble in the Style and Drafting Committee copy and insert the preamble from the first enrolled copy.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I was one who voted in favor of the preamble as it was offered in the enrolled copy, but immediately upon looking at it, I said publicly here to delegates here that certainly this will have to be dressed up by Style and Drafting. I don't believe that any of us ever vote on a particular formation and coupling of words together. We always vote knowing that there has to be some changes to dress the thing up. Therefore, I will oppose this move.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I also have no particular pride of authorship. I was a member of the subcommittee that broached the redraft which was accepted by the full committee without changes, I think Mrs. Nordale and Mr. Hurley served with me on that committee and we were advised by our technical advisers. However, I wish to say this: that the original amendment as offered by Mr. White is even faulty mechanically. It lacks some fundamental things that belong in any well-written preamble. It states no purpose in writing a preamble. The Constitution of the United States reads as follows -- I am not sure I can give you all the -- exactly the order in which the provisions fall:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, and promote the blessings of liberty to ourselves and our posterity, do ordain this Constitution." And I am not quoting it exactly, but I am giving you the substance of it. In other words, every well-written preamble to a constitution has that phrase - "in order to do" something. In this preamble which we wrote, we have "In order to secure and transmit to succeeding generations our heritage of civil, political, and religious liberty". That is the phrase which gives us the reason for writing the constitution -- "In order to transmit to succeeding generations our heritage of civil, political, and religious liberty, we do ordain and establish this constitution for the State of Alaska." There is nothing whatsoever in the original constitution, even if it was written by 12 people and subscribed to by the whole dozen, that says "in order to do" anything. It is a collection of words -- high-sounding, nice words, with God in the middle instead of up front where he belongs, and it in no sense says "in order to do" something. Now I don't mind having my own phraseology changed, but I hate to be one of a Style and Drafting Committee that turns out on the world a preamble, which is probably the only part of the constitution that will be read by hundreds and thousands of people, that isn't even mechanically correct in its structure, and for that reason I am going to oppose the rescission motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, noting that many of the delegates do not have both copies before them, I would ask unanimous consent that the Chief Clerk read first the preamble which appeared in the enrolled copy, and next the preamble which is in the Style and Drafting Committee report.

PRESIDENT EGAN: If there is no objection, the Chief Clerk will please read first the preamble as it appears in the enrolled copy, and then the preamble as it appears in the report by the Committee on Style and Drafting.

CHIEF CLERK: "We the people of Alaska, conscious of our heritage of political, civil, and religious liberty, faithful to God and

to those who founded the nation and pioneered this great land, reaffirm our belief in government by the consent of the governed within the Union of States, do ordain and establish this Constitution for the State of Alaska."

CHIEF CLERK: "We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the Union of States do ordain and establish this constitution for the State of Alaska."

PRESIDENT EGAN: Now if you vote "yes" on this motion to rescind you will be in effect -- you will be substituting the enrolled copy of the preamble as it appears in the enrolled copy, for the preamble as it appears in the report of the Committee on Style and Drafting. If you vote "no" on the motion for rescinding, the preamble will remain as it is in the report of the Committee on Style and Drafting. Mr. White.

WHITE: Mr. President, I am sorry this has to be such a long drawn out procedure but I would just like to take a minute. It was inferred last night, I think, on the floor, and again tonight, that one of my motives in moving this substitution was the fact that the word "God" may appear somewhere near the middle of this first draft and it is way up front in the second one. That is not my objection; I think it's fine way up front. My objection primarily was that the Style and Drafting draft left out the words "reaffirm our belief in government by consent of the governed within the Union of States," which I think is a very happy phrase to have in our preamble. As the report came out from Style and Drafting Committee, that phrase did indeed appear way down in Section 2, but you will recall that we have now replaced Section 2 with the old Section 2 so this phrase now no longer appears anywhere in the bill of rights. Secondly, "in order to secure and transmit to succeeding generations" doesn't appear to me to be a very strong or happy phrase for our preamble. It may mean to some people to give up something we now have and hand it on to future generations, but I don't think it is a very well-worded phrase. For those two reasons I preferred and I felt that a lot of the other members preferred and I am sure -- at least I was so assured by several members of the Committee on Style and Drafting -- the original preamble.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action taken in voting down Mr. White's amendment?" Mrs. Hermann.

HERMANN: A roll call, please.

PRESIDENT EGAN: Mr. Cooper.

COOPER: The way you placed that statement --

PRESIDENT EGAN: "Shall the convention rescind the action taken in voting down Mr. Barrie White's proposed amendment?" If you vote "yes" you are voting for Mr. White's amendment; if you vote "no" you are voting in opposition to Mr. White's amendment. The Chief Clerk will call the roll.

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

Yeas: 8 - H. Fischer, V. Fischer, Kilcher, Laws, Poulsen, V. Rivers, White, Wien.

Nays: 41 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nerland, Nordale, Peratrovich, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Mr. President.

Absent: 6 - Coghill, Collins, McLaughlin, Marston, Nolan, VanderLeest.)

CHIEF CLERK: 8 yeas, 41 nays, and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the Convention has failed to rescind its action. Are there other questions or proposed amendments for Article I, the article on the preamble and declaration of rights? Miss Awes.

AWES: I have a committee amendment but I think it goes to substance. Is this the proper time for it?

PRESIDENT EGAN: Well, it would be the proper time, Miss Awes, it would take a suspension of the rules. Would you care to read the amendment?

AWES: The amendment is on the Chief Clerk's desk.

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

CHIEF CLERK: "Section 19, page 5, strike 'except in case of absconding debtors' and substitute: 'this does not prohibit civil arrest of absconding debtors'."

AWES: What do I move, to suspend the rules so we can vote on this amendment?

PRESIDENT EGAN: Now the question is, is that a change in substance or is it a change in the method of accomplishing the same thing? The Convention will be at recess for two minutes.

## RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair will rule that the proposed amendment is not a substantive amendment; it is a clarifying amendment and consequently is just a phraseology amendment. Miss Awes, do you move the adoption?

AWES: I move the adoption and ask unanimous consent.

PRESIDENT EGAN: Miss Awes moves adoption of the proposed amendment and asks unanimous consent. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other questions relating to Article I? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further amendments, I move and ask unanimous consent that the rules be suspended, that the preamble and the article on declaration of rights be advanced to third reading and final passage, be read by title only and placed upon final adoption.

PRESIDENT EGAN: Mr. Sundborg moves -- Mr. Kilcher.

KILCHER: Did Mr. Sundborg make his motion [to include] "in case there are no amendments"? I have an amendment to offer.

PRESIDENT EGAN: Do you have an amendment to offer to the -- what section, Mr. Kilcher?

KILCHER: Section 19, Mr. President.

PRESIDENT EGAN: An amendment in substance and consequently will take a two-thirds vote, I realize that.

TAYLOR: I am going to rise to a point of order.

PRESIDENT EGAN: Your point of order.

TAYLOR: The point is that it comes too late, that Mr. Sundborg had made another motion.

PRESIDENT EGAN: Mr. Taylor, in effect, Mr. Kilcher's rising at that time constitutes an objection to the unanimous consent request for the purpose of submitting an amendment, and the Chair has no other way that the Chair could rule. Mr. Kilcher.

KILCHER: I move the rules be suspended and the amendment in Section 19 be adopted, namely, to strike the rest of the sentence after the comma and make a period out of the comma -- "except in case of absconding debtors".

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

UNIDENTIFIED DELEGATE: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

UNIDENTIFIED DELEGATE: Isn't this the same amendment that was offered when this was in second reading?

PRESIDENT EGAN: Was this amendment ever presented to the Convention previously? If it was, it is out of order.

SUNDBORG: Mr. Kilcher has asked for a suspension of the rules. I think under a suspension of the rules that he would be in order.

PRESIDENT EGAN: Mr. Sundborg, if Mr. Kilcher could get a suspension of the rules, you are correct.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: The sentence has been amended by the amendment offered by Miss Awes, and consequently he is asking us to strike the wrong thing.

PRESIDENT EGAN: Isn't there a comma there anymore, Mrs. Hermann?

KILCHER: Yes, change the comma to a period, but strike the rest of the sentence.

PRESIDENT EGAN: Mr. Kilcher's motion now is, "Shall the rules be suspended in order that he might submit this amendment?"

HERMANN: May we have read how the rest of the sentence is now?

PRESIDENT EGAN: Would the Chief Clerk please read how Section 19 reads at this time.

CHIEF CLERK: "There shall be no imprisonment for debt but this does not prohibit civil arrest of absconding debtors."

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

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

Yeas: 15 - Barr, Boswell, Buckalew, V. Fischer, Harris, Hurley, Kilcher, Lee, Londborg, Marston, Nerland, Nordale, Riley, Stewart, Sundborg.

Nays: 35 - Armstrong, Awes, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Laws, McCutcheon, McNealy, McNees, Metcalf, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Absent: 5 - Coghill, Collins, McLaughlin, Nolan, VanderLeest.)

CHIEF CLERK: 15 yeas, 35 nays, and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the preamble and the article on declaration of rights, under suspension of the rules, be advanced to third reading, be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the preamble and Article I, the declaration of rights, be advanced to third reading, read the third time by title only, and placed in final passage. Is there objection? Hearing no objection it is so ordered and the article on the preamble and declaration of rights is now before us in third reading and open for debate. Mr. Barr.

BARR: Mr. President, because I hear that the coffee shop closes at 10:00 o'clock or soon thereafter, I now move that we have a 15-minute recess.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Chairman, I wonder if the mover of the motion would agree to extend it 10 minutes. I should like in any event to call a meeting immediately of the Committee No. VI, Suffrage and Elections and Apportionment, upstairs following the recess --immediately following the declaration of recess.

BARR: I will amend my move then for a recess until 9:50.

PRESIDENT EGAN: Delegate Barr moves that the Convention stand at recess until 9:50. Unanimous consent is asked. Is there objection?

McCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard. Mr. Smith.

SMITH: Mr. President, I wanted to ask Resources Committee to get together for about two minutes immediately upon recess.

PRESIDENT EGAN: When recess commences, Resources Committee will get together for about two minutes. Are there other committee announcements?

McCUTCHEON: Mr. President, I move that we advance the bill in third reading and read the bill.

PRESIDENT EGAN: Was there a second to Mr. Barr's -- the Chair did not hear a second.

McCUTCHEON: He did not move for his adjournment, Mr. President.

BARR: I asked for unanimous consent. I will now move for a recess. Some of us are getting a little short-tempered. It's time we had some coffee.

McCUTCHEON: Objection.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Barr moves that the Convention stand at recess until 9:50, seconded by Mr. Doogan. The question is, "Shall the Convention stand at recess until 9:50?" All in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention stands at recess.

#### RECESS

PRESIDENT EGAN: The Convention will come to order.

COGHILL: On the desks of the individual delegates they will find a package that has 25 of the invitations for the closing ceremonies for use of the individual delegates. There will be invitations sent to all the Territorial officials, the members of the last legislature, and to the cabinet members, as well as the President and all of the national Senators and the House of Representatives.

PRESIDENT EGAN: We have before us Article I, preamble and declaration of rights, before us in third reading and open for debate. Mr. McCutcheon.

McCUTCHEON: Has the article been read yet by title?

PRESIDENT EGAN: The Chief Clerk will please read the Article.

CHIEF CLERK: "Preamble, Article I, Declaration of Rights."

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, may we have Section 19, as amended by Miss Awes, read again, please?



PRESIDENT EGAN: Will the Chief Clerk please read the article or Section 19, as it now reads.

CHIEF CLERK: "There shall be no imprisonment for debt but this does not prohibit civil arrest of absconding debtors."

PRESIDENT EGAN: Is there a discussion or debate on Article I, the declaration of rights and preamble? If not -- Mr. Doogan.

DOOGAN: A question has been bothering me. I have asked this of one member, but I wonder about this final passage business; this reading by title only. I am wondering if it wouldn't be better for future legal interpretation if we avoided this reading by title only and read the article in its entirety.

PRESIDENT EGAN: Mr. Doogan, that would be up to the delegates of course, but it is the definite feeling of the Chair that it makes no difference as far as future reference is concerned. There is nothing in the Act that set up this Convention that would make suspending the rules and reading the article for the third time by title only, illegal. It is a procedure that is adopted in other bodies. The question is, "Shall the article on the preamble and declaration of rights be adopted as part of the Constitution of the State of Alaska?" The Chief Clerk will call the roll.

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

Yeas: 44 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McNees, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 0

Absent: 11 - Collins, V. Fischer, McLaughlin, McNealy, Marston, Nolan, Peratrovich, Robertson, Smith, Stewart, VanderLeest.)

CHIEF CLERK: 44 yeas and 11 absent.

PRESIDENT EGAN: The "yeas" have it, and the article on the preamble and declaration of rights has become a part of Alaska's state constitution. We now have before us Article V, the article on suffrage and elections. Mr. Sundborg.

SUNDBORG: Mr. President, I ask permission to revert to the order of business of committee reports.

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business of reports from standing committees.

SUNDBORG: Mr. President, the Committee on Style and Drafting is now reporting to the Convention its redraft of the article on the executive. Copies are now being passed out to the delegates.

PRESIDENT EGAN: Do you wish that that article be read at this time and referred to the Rules Committee?

SUNDBORG: For placement on the calendar I think the usual procedure is not to read it but just to assign it to the Rules Committee.

PRESIDENT EGAN: If there is no objection, the article on the executive is referred to the Rules Committee for assignment to the calendar. We have before us Article V, the article on suffrage and elections. The Chief Clerk may read the report of the Committee.

(The Chief Clerk read the report of the Committee on Style and Drafting.)

PRESIDENT EGAN: Does the Committee on Style and Drafting have a report to make at this time? Mr. Sundborg.

SUNDBORG: Mr. President, just before we give our oral report, I would like to have a committee amendment incorporated in the draft as if it were an original part thereof. I will ask the Chief Clerk to read the committee amendment.

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

CHIEF CLERK: "Section 1, line 6, after the word 'year', strike the article 'a' and insert the following: 'an actual, bona fide, and continuous'; at the end of the same line, after the article 'a', insert the word 'like'."

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

SUNDBORG: I ask unanimous consent that the amendment just read be incorporated in the draft as if it were a part thereof at the time of its being submitted to this Convention.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the amendment just read become a part of the report.

UNIDENTIFIED DELEGATE: May we have it read again, please?

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

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

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Is it then the intention of the Style and Drafting Committee to arrange the other articles of the constitution already adopted to have like terminology as this?

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

SUNDBORG: Mr. McCutcheon, it is not, and we are offering this as a committee amendment only because it was argued to us by the Chairman of the substantive committee which handles this article that that language had been in the enrolled copy and that therefore our striking it amounted to striking a matter of substance, or changing a matter of substance. Now, we have put it back in, feeling that it was our duty to do so, but we do not feel bound as individuals or even as a committee to vote in favor of leaving it in. We believe as reported back to the floor it should be in there for such consideration as the Convention wants to give it.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, may I address a question to Mr. Sundborg?

PRESIDENT EGAN: If there is no objection.

RILEY: Did I understand you to say a moment ago that you are presenting it now as a committee amendment or do you simply wish to incorporate it in your report as it comes out?

SUNDBORG: We wish to incorporate it in the report as it comes out.

RILEY: Still subject to amendment?

SUNDBORG: Subject to amendment.

RILEY: Thank you.

PRESIDENT EGAN: Mr. Barr.

BARR: I would like to ask a question.

PRESIDENT EGAN: If there is no objection.

BARR: Mr. Sundborg, in your opinion when you use the word "continuous", does that mean that a man should actually be in Alaska

for the previous year? If he went on a vacation in July and went to the states, then he couldn't vote in October?

SUNDBORG: Mr. President, I should say at this point that this redraft was the product of a subcommittee of the Style and Drafting Committee consisting of Mrs. Hermann, Mr. McLaughlin, and Mr. Johnson, and that we have asked Mrs. Hermann to answer such questions as there may be with respect to this article, so I wonder if Mrs. Hermann would take over the fielding of the questions from this point on.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Well, our usual procedure has been for the chairman to explain the changes that were made in general, and then have a period of questioning on each section, and I would prefer to handle it that way.

SUNDBORG: Mr. President, I wonder if we might not have this incorporated in our report, and then we would be glad to answer any questions about it or deal with it in any way that the delegates desire.

BARR: I will defer my question then until after the whole thing has been covered.

PRESIDENT EGAN: You are asking unanimous consent, Mr. Sundborg, that it be incorporated at this time? It does not preclude amending it later, Mrs. Hermann. Is there objection to incorporating the proposed committee amendment at this time to become part of the report? Hearing no objection, it is so ordered. Mr. Sundborg, do you wish that an explanation be made of your work on this article?

SUNDBORG: Mrs. Hermann will give such an explanation, Mr. President.

HERMANN: Mr. President, members of the Convention, you will note, if you will refer this to your enrolled copy, that we have taken the first section of the enrolled copy which was one sentence, and made it into several sentences. We have not eliminated anything from Section 1 and since putting in the amendment which Mr. Sundborg just read, we have practically made no change except for purposes of condensation and shearing off some unnecessary words. The first section sets up the qualifications of voters. I might say, in that connection, that if you accept this first section as it is written, containing the expression "actual, bona fide, and continuous resident" etc., you will be at variance with the residence requirements that are set up in the legislative article and also in the executive article. Section 2 of the legislative article provides that the qualified voter has been a resident of Alaska for at least three years and of the district

from which he is elected for a year immediately preceding his filing for office. There is nothing said in the legislative article about his being an actual, bona fide, and continuous resident. He merely is a resident. We thought the words "actual, bona fide, and continuous" were very redundant, and if he had been a resident for the period stated next preceding the election, he had all those qualifications without their actually being set down. In the residence requirement that is set up under Committee Proposal No. 10/a, which is for the executive department on which you will probably be acting on tomorrow, the residence requirement is that he shall have been a resident of Alaska seven years next preceding his election, and that, also, there is no reference to his being an actual, bona fide, and continuous resident. In that respect, there is a lack of uniformity in the residence requirements as set up in the suffrage and elections article and in the legislative and executive articles, and, of course, one of the things which Style and Drafting always seeks to undertake is to have uniformity of language through all the sections of the constitution. It will, of course, be up to the body here to determine whether they want to make that exception in this case or not. We moved up Section 2 from a place which was toward the end of the original article and put it next to the section on qualified voters since it sets up the disqualifications. Under Section 3, we have combined several sections, including a new one that had been placed at the end which included secrecy of voting shall be preserved. I believe there has been no change of substance in any of these. We have only five sections of the entire article. It's brief, and we shouldn't have to spend the next week arguing. I would also call your attention to the special voting provision which appears at the bottom of the page and is labeled Section 6, and that refers to the exemption that was made for voters who voted in November, 1924, and we believe that that does not belong in a permanent article in the constitution and that it should be transferred to the transitional section, and will make that request at the proper time. Now, if there are any questions, I will be glad to answer them.

PRESIDENT EGAN: Mr. Londborg, do you have a question?

LONDBORG: As I read this report of Style and Drafting Committee which includes the words "actual, bona fide, and continuous resident", that sets up the qualifications for a person to be an elector, is that right?

HERMANN: Yes. An elector or a voter. I might add here that no place in any of the articles have we used the word "elector", because we have set up qualifications for voters and from here on, we will call them "voters".

LONDBORG: A "qualified voter" -- pardon me.

HERMANN: Yes.

LONDBORG: We would call them a "qualified voter", and in both the legislative and executive article, the candidates seeking office, as our adopted report stands, must also be qualified voters, so I would think that you have complete harmony then with the other two articles because in order to file for either the governorship or member of the legislature, they must be a qualified voter, and you look back here, and it says they must be an actual, bona fide, and continuous resident, so I think you have harmony.

HERMANN: That is not a question but I am glad to have the expression of the opinion.

PRESIDENT EGAN: Are there questions to be asked of Mrs. Hermann? Mr. Barr.

BARR: No, my question hasn't been answered yet, Mr. President. I want to know if this would bar a man from voting if he took a 30-day vacation in California before the election. It says here he must be a continuous resident for the previous year. Now just what does that mean?

HERMANN: I think that is exactly what it does mean; that he couldn't vote if he were not here continuously for the year previous.

BARR: He and a convicted criminal, then, could not vote? That must be a criminal act. I don't think I would go for that.

HERMANN: He could vote absentee, of course.

BARR: But he's not a qualified elector.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I would like to ask Mrs. Hermann two questions. You say that the definition of a "qualified voter" is contained in other articles?

HERMANN: No. The definition of a "qualified voter" is limited to this article, but, in the other articles, they say he must be a qualified voter but they set up residence only as a requirement. They don't include those words "actual, bona fide, and continuous", just a resident. I might say that before we worked over some of these articles, some of them said 'who has resided in the Territory or state' for so long, and others that were residents of the state for so long, and in order to get the uniformity which we feel is essential in the constitution as a whole rather than in the separate sections, we tried to put all of those residence requirements in exactly the same language.

TAYLOR: Then, I cannot see, Mrs. Hermann, why it must be an "actual, bona fide, and continuous resident". You say a person

goes outside and that breaks the continuity of their residence. What would be the use of giving him an absentee ballot, because they're not able to vote?

HERMANN: Probably -- I think the word "continuous", as well as "actual and bona fide" and so on, limit the meaning of the word "resident", myself.

TAYLOR: Does the Committee that drew this up give any thought -- I think this is the article in which a legal voter should be described.

HERMANN: The qualifications were set up here on the floor at the time this article was considered as a committee proposal. The only thing we have done to them is to group them into sentences instead of leaving them in a long sentence that covered a whole page in which they were originally presented.

TAYLOR: Have you given any thought to making a separate sentence out of this: "A legal resident shall have had such yearly residence in the Territory and 30 days in the precinct."

HERMANN: Well, I think we have made a separate sentence out of it.

TAYLOR: And then you could refer to him as a legal voter -- a legal resident.

HERMANN: Well, of course, I think when they are qualified to vote, they are a legal voter. We have given no thought to any change in the language beyond what was absolutely necessary to move it into this section.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, may I ask Mrs. Hermann a hypothetical question?

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

METCALF: Under this section with the new language, Mrs. Hermann, if I should, ten days before the general election, travel from the Seward precinct to the Anchorage precinct for a couple of days business, would I be allowed to vote under this, because my presence in the precinct would not be actual?

HERMANN: I personally think that unless you were living in the other precinct that you could vote. Making a trip I don't think would make any difference at all. If there is anybody on the Committee who wishes to enlarge upon that, I would be very glad to have them put in their two bits worth.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I don't know whether I can enlarge upon that or not, but I take an entirely different view of this thing from what Mrs. Hermann has just explained, if I understood her correctly. I believe that a resident remains a resident whether he is physically present at his place of residence at all times or not. I can think of many instances where the law allowed a person to be physically absent and yet retain his residence. One of them, the most common one in this country, is military service. A person neither gains nor loses residence by being elsewhere in military service; he keeps his residence. He is still a resident of the place where he was when he went into the military service. Another instance that is commonly recognized by the courts, as I understand it, is where a person goes to the states from Alaska for medical attention; he may be gone for ten days or two months or even five years, but he hasn't intended to change his residence. He is still a resident of Alaska -- a continuously and actual, bona fide resident even though he may not be physically present. That is my understanding of it. On top of that, as I understand it, the term "residence" in law requires a concurrence of two things: one, physical presence; two, intent. Now a person can be a resident and not be actually physically present if he intends to maintain his residence at that place. On the other hand, he may be physically present some other place and he does not gain residence unless he has intent. Now the intent is where we usually have trouble in the courts, because intent, of course, is in a person's mind; and he may say, "Yes, I intend to live in Alaska", when in fact he doesn't. Well, then you look at various things he does to indicate whether he has that intent or whether he doesn't. We run into it continuously here in the matter of divorce cases where the present law requires you to be an actual resident -- I don't think they use the word "actual" -- but you have to be a bona fide resident and inhabitant of Alaska for two years before you can file for divorce. Now we have many, many cases where people are physically present in Alaska, but they haven't formed the proper intent to be a resident and accordingly they cannot gain the residence requirements. Once again, the most common example of that is the military service. We have people who are sent up here by the military; they are physically present in Alaska all right, but they did not have the required intent because they were sent here by the military, and, at least in our courts, we have taken the position that in order to show anything, they had to do something that would separate them from the ordinary run of military people. They had to live off of the Post; possibly pay taxes; they had to have resident fishing and hunting licenses. I don't mean to say they had to have all those things but those are all indications of intent. That is my understanding of this word "residence".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I should like to be heard on this. As the Chairman of the Elections and Suffrage Committee I gave it considerable thought.



JOHNSON: Point of order, Mr. President.

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

JOHNSON: There is nothing before the Convention at this time.

PRESIDENT EGAN: There is nothing before us unless there is a question directed --

DOOGAN: May I ask a question?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I would like to ask Mrs. Hermann this: if this language, "actual, bona fide, and continuous" was left out, what would be the position of a person that left one election district and went to another for the purposes of taking a job for a period of anywhere from 30 days to two years, moved his family, but still wanted to vote by absentee ballot in the precinct or election district where he came from.

HINCKEL: Point of order, Mr. Chairman.

PRESIDENT EGAN: Your point of order.

HINCKEL: I think the questions are being directed to the wrong committee chairman. They didn't change the substance; they put it in just exactly the way it came from the Committee. I think if they want to argue about it they had better direct their questions to the Committee.

PRESIDENT EGAN: That question could be properly directed to the Chairman of the Committee on Suffrage and Elections.

V. FISCHER: Point of order, Mr. President.

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

V. FISCHER: I think Mr. Hinckel's point of order in part was that this is a report of the Committee on Style and Drafting, the report concerns only the language. The question should be, should there be any changes in language to keep the intent of the original article as it was in second reading. It seems to me that we should first take care of this Style and Drafting as a --

PRESIDENT EGAN: Mr. Fischer, you are entirely correct.

DOOGAN: All right, I will withdraw my question.

PRESIDENT EGAN: The questions should be directed to anything that the Style and Drafting Committee may have changed.

HELLENTHAL: May I say on behalf of the Committee that we agree fully with the Committee version of the Suffrage and Elections report. The Committee has gone over it as a whole and they have no objection to it whatsoever.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask a question of Mr. Davis and Mrs. Hermann? The same question?

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

NORDALE: I would like to know if there is any difference between a resident, an actual resident, a bona fide resident, or a continuous resident. I would like to have both of you answer the question.

PRESIDENT EGAN: Mr. Davis.

DAVIS: That is one of those loaded questions, Mr. President, like have you stopped beating your wife. In my opinion, for what it may be worth, the words "actual, bona fide, and continuous" add nothing to the language -- "a resident". It means the same thing. Now, that is my opinion; it is not Mr. Hellenthal's opinion. That is the way I look at it. On the other hand when you say, is there any difference between an "actual resident" and just "a resident", there could be. If you say, is there any difference between "a bona fide resident" and "a resident", there could be. A resident might be somebody who was here and who claimed he had an intent, but he wasn't. He didn't have a good faith intent. That is what "bona fide" means, after all, is good faith; continuous also, there is certainly a lot of difference between "resident" standing by itself and "continuous resident". I can be a resident of Alaska today; I can move to Seattle tomorrow with full intent to make my home in Seattle tomorrow. I can move back to Anchorage the next day with intent to live in Alaska from there on, and certainly it couldn't be said that I had had continuous residence in Alaska. It's a matter of intent, and, as I said awhile ago, that is something that is in a man's head and you have to show it by proof of some kind or another when you get down to these points. Now we can argue here a long, long time about this, but I suspect that we are not going to come to any very satisfactory conclusion because the law books are full of cases -- you can stack them up to the ceiling on cases on residence, and you wouldn't ever get all the cases -- all the variations of it.

PRESIDENT EGAN: Well, there again we are --

McCUTCHEON: Mr. President, I want to support Mr. Fischer's point of order.

PRESIDENT EGAN: The Chair recognizes that, Mr. McCutcheon.

McCUTCHEON: I think it is incumbent upon the Chairman of the Committee on Style and Drafting to move for the adoption of his report so we can proceed to other matters here.

PRESIDENT EGAN: Mr. McCutcheon, you are correct. The questions at this time should be directed only to matters that the Style and Drafting Committee had before them. The enrolled copy contained the words "actual, bona fide" and also the word "continuous" and that line of questioning is not in order at this time.

NORDALE: Mr. President, I apologize, but my point was that as a matter of style, I thought it sounded all right just to say "a resident" and I wanted to clarify it.

PRESIDENT EGAN: Are there questions relating to the report as it has come from the Committee on Style and Drafting? Now comes the question as to whether it is better to withhold the motion to accept the report until after we have considered any possible amendments and then have the Committee ask for the adoption of the report as amended. Mr. Davis.

DAVIS: Mr. President, it seems to me it would be more orderly if there are amendments as to style to make the amendments now. As far as substantive amendments, I think we would do better to do it after the report has been adopted, if it is adopted.

PRESIDENT EGAN: Are there any amendments to be proposed as to style or phraseology? Mr. Ralph Rivers.

R. RIVERS: Has it been decided that this "actual, bona fide, and continuous" as distinguished from the word "resident" alone is a matter of substance or a matter of style?

PRESIDENT EGAN: Well, it could very well be a matter of substance.

R. RIVERS: I understand that Mr. Hellenthal regarded it as a matter of substance, so I will make my motion to strike that later.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I might state, Mr. President, that that is the reason it is in here, because it was considered a matter of substance and we had left it out, and Mr. Hellenthal called it to our attention and we felt that he had properly called it to our attention, and we put it back in.

PRESIDENT EGAN: Thank you, Mr. Davis. Are there amendments to be offered to Section 1 with relation to style? Mr. Buckalew.

BUCKALEW: Mr. President, I'm going to take a chance on this. I think I have an amendment as to style.

PRESIDENT EGAN: Would you state the proposed amendment, Mr. Buckalew?

BUCKALEW: "Strike 'continuous, bona fide' and strike that other word too, and insert 'resident and inhabitant of Alaska'." I think it means the same thing.

PRESIDENT EGAN: Would you read that again, what you are attempting to strike, Mr. Buckalew.

BUCKALEW: I will withdraw that if it is all right to talk to Mr. Hellenthal. I am sure there would be an objection to it.

PRESIDENT EGAN: Are there other proposed amendments as to style on Section 1 and Section 2? Are there proposed amendments to Section 3? Section 4? Or 5? Now, does this provision come out of here -- Section 6? Is that going to be your recommendation, Mrs. Hermann?

HERMANN: In Section 5, we made a slight change there by adding "the month and day may be changed by law" instead of "the date may be changed by law". I think that is style entirely but I thought I had better call it to your attention.

PRESIDENT EGAN: Are there any questions relating to Section 5, or Section 6, or is this section to be recommended to the Committee on Transitional Measures? Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that Section 6 be referred to the Committee on Ordinances for incorporation in the transitional section of the constitution.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that Section 6 be referred to the Committee on Ordinances with instructions that the section be included in the provisions for transitional measures. Mr. Ralph Rivers.

R. RIVERS: May that be called "miscellaneous provisions" instead of "transitional measures"?

PRESIDENT EGAN: What is the feeling of the Chairman of the Style and Drafting Committee?

SUNDBORG: Mr. President, as we have outlined our tentative thoughts on how the constitution would be arranged, we would have the transitional measures set out separately from the miscellaneous provisions, although that, of course, is a decision which we and the Convention will still make some time in the

future. But I believe I stated my motion correctly in the first place, and that was that it be referred to the Committee on Ordinances for incorporation among the transitional measures.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing none it is so ordered. Mr. Sundborg.

SUNDBORG: Now, Mr. President, if there are no amendments as to style or phraseology, I move and ask unanimous consent that the report of the Committee on Style and Drafting be accepted, and that the changes which have been made in language in the article on suffrage and elections be adopted.

PRESIDENT EGAN: Is there a second?

R. RIVERS: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Ralph Rivers.

HERMANN: I will have to object for the purposes of propounding an inquiry.

PRESIDENT EGAN: Your inquiry, Mrs. Hermann.

HERMANN: If that isn't accepted as Mr. Sundborg stated, does that bar us from asking that all that surplusage of "actual, bona fide, and continuous" be eliminated?

PRESIDENT EGAN: It does not bar you, Mrs. Hermann, but at this time, or after this motion of Mr. Sundborg's would be adopted, it would take a suspension of the rules to accomplish that.

BARR: After we adopt it?

PRESIDENT EGAN: Or at this time, it would also.

BARR: At this time?

PRESIDENT EGAN: Yes.

HERMANN: For substance.

PRESIDENT EGAN: For anything that is not strictly style, anything that contains substance.

BARR: This is already in the other committee report, as I understand it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, will I, on behalf of the Committee, have an opportunity, prior to any request for suspension of the

rules, to give the background of these words that we feel definitely are not surplusage?

McCUTCHEON: He would have to have something at issue before we could get at that.

PRESIDENT EGAN: Or if Mr. Hellenthal would choose to ask for the floor and ask unanimous consent to be heard and no one object, he could give that explanation. Mr. Hellenthal.

HELLENTHAL: I am Chairman of the Committee and I speak in their behalf; we have no desire to impose on the body, but I do think it would certainly clarify things if we could give a brief explanation of the nature of this setup.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Chairman, I would suggest to Mr. Hellenthal that the words he wants in are now in. Unless and until somebody moves to take them out, then they stay there. There is no need for an explanation. If somebody moves to strike them, certainly he can explain in connection with his vote or with his motion.

HELLENTHAL: Point of information. If the motion is to suspend the rules, then we cannot be heard until after the vote on the motion to suspend the rules, because I understand it is not debatable.

McCUTCHEON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded -- Mr. Hellenthal.

HELLENTHAL: I have a request because of that matter, to at this time, and I believe it will expedite matters, to give the explanation of this --

SUNDBORG: Mr. President, I had asked consent to have our report accepted and the amendments which we have made adopted. Now is there objection to that?

PRESIDENT EGAN: Is there objection to the unanimous consent?

HERMANN: I had objected temporarily but I withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption -- acceptance of the report and the adoption of the changes that were made by the Style and Drafting Committee? Is there objection? Hearing no objection the report is ordered accepted and the changes adopted. Mr. Riley.

RILEY: I might suggest to Mr. Hellenthal, if I may, that the language is now in. I suspect there will be a number of requests

for suspension of the rules for specific amendment, amendments identical or nearly so, and perhaps it would save a little time if we had a recess so Mr. Buckalew and Mr. Hellenthal could get together. Certainly, if the rules are suspended, there will be opportunity for Mr. Hellenthal to be heard; if they are not there will be no need.

HELLENTHAL: I hoped that the members would be able to know what they were voting on when the request for suspension was made. That is the only reason I asked for it.

RILEY: I ask unanimous consent, Mr. President, for a few minutes' recess.

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

RECESS

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

RILEY: I ask unanimous consent that the rules be suspended to return Article V to second reading for the purposes of specific amendment. I believe the Clerk has a number of identical or nearly identical amendments.

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

CHIEF CLERK: "Page 1, line 6, strike 'an actual, bona fide and continuous'; strike 'like'; insert the article 'a' after 'year'."

PRESIDENT EGAN: Who was that by?

CHIEF CLERK: Mr. Riley.

PRESIDENT EGAN: The question is, "Shall the rules be suspended in order that the proposal can be returned to second reading for specific amendment?" The Chief Clerk will call the roll.

UNIDENTIFIED DELEGATE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection to the suspension of the rules for the specific amendment?

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard.

RILEY: I so move.

PRESIDENT EGAN: Mr. Riley so moves.

McCUTCHEON: I second the motion.

PRESIDENT EGAN: Seconded by Mr. McCutcheon that the rules be suspended. The Chief Clerk will call the roll.

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

Yeas: 36 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Lee, McCutcheon, McNees, Marston, Metcalf, Nerland, Nordale, Reader, Riley, R. Rivers, V. Rivers, Smith, Sundborg, Sweeney, Taylor, White, Wien, Mr. President.

Nays: 13 - Coghill, Davis, Gray, Hellenthal, Hinckel, Knight, Laws, Londborg, McNealy, Peratrovich, Poulsen, Rosswog, Walsh.

Absent: 6 - Collins, McLaughlin, Nolan, Robertson, Stewart, VanderLeest.).

HERMANN: Mr. President. I wish to change my vote to "yes".

PRESIDENT EGAN: Mrs. Hermann changes her vote to "yes". The Convention will come to order. Mrs. Wien.

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

PRESIDENT EGAN: Mrs. Wien changes her vote to "yes".

TAYLOR: I change my vote to "yes".

PRESIDENT EGAN: Mr. Taylor changes his vote to "yes". The Convention will come to order. The Chief Clerk is attempting to tally the vote.

CHIEF CLERK: 36 yeas, 13 nays, and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. It takes 37 votes to suspend the rules. Are there any other proposed amendments to Section 1 or Section 2? Mr. Hellenthal.

HELLENTHAL: I would like privilege of the floor for five minutes to explain this, if I may have it. I don't want to take your time unnecessarily, but I do think it might clarify it.

PRESIDENT EGAN: Is there objection?

McCUTCHEON: I object. Yes, I object, Mr. President. The rules have not been suspended and there is no use wasting the time.



PRESIDENT EGAN: Objection is heard. Are there other amendments to be proposed. Mr. Barr.

BARR: Mr. Hellenthal is the Chairman of the committee and I think we owe him the courtesy of hearing him. It doesn't matter about rules or anything else. We have always been willing to hear the chairman of a committee on any subject that the committee has dealt with, and I think we should hear him.

HELLENTHAL: I will be happy to talk to each of you individually at any time on this, but I can assure you that you will be interested.

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to be proposed to Sections 1, or 2, or 3? Mr. Doogan.

DOOGAN: Mr. President, I move at this time to rescind our action on that last amendment, on the suspension of the rules.

PRESIDENT EGAN: Is a motion to suspend the rules rescindable? It is the feeling of the Chair that it is not. Mr. Davis.

DAVIS: In any case, Mr. President, the motion for reconsideration is still open on this particular vote.

PRESIDENT EGAN: You can't reconsider a motion to suspend the rules; the Chair is certain of that. Mr. Barr.

BARR: Mr. President, I move that Mr. Hellenthal be given the privilege of the floor for five minutes for the purpose of explaining this section.

PRESIDENT EGAN: Mr. Barr moves that Mr. Hellenthal be given the privilege of the floor for a five-minute period for the purpose of explaining this election section.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall Mr. Hellenthal be given the privilege of the floor for the purpose of explaining the section?" Mr. McCutcheon.

MCCUTCHEON: The point that I would like to make is, why is it necessary to take up the time of the Convention with an explanation on one side only, when there is no argument that can be heard from the other side? The question is patent here. It is in the act that we have adopted or are about to adopt and there is no question about it at all. If the delegates were desirous of having the rules suspended to hear these points of argument on both sides, then they should have voted for suspension.

LONDBORG: Point of order.

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

LONDBORG: I can agree with Mr. McCutcheon on that, but it seems that, at the same time, the suspension of the rules is for the protection of the minority and I think the minority hung onto that, because once they would give it up, then it would come to a majority vote, and I think there might be some of the minority that would yield to the suspension of the rules if they heard the argument a little bit.

PRESIDENT EGAN: Mr. Barr moves -- Mr. Davis.

DAVIS: Mr. President, I voted "no" on suspension of the rules and I did it for this particular reason: the thing that Mr. Hellenthal wants is in here now. If the rules had been suspended, then it would have become necessary to explain this thing. Since the rules have not been suspended, and since, at least at this time, the section stands the way Mr. Hellenthal thinks it should stand, it seems to me we are wasting time of the Convention to make any explanation. It stands that way -- just the way that he wants it, as I understand it.

PRESIDENT EGAN: Mr. Barr.

BARR: What Mr. Davis has said is true, but some other member here might get up and make a motion to suspend the rules for a specific amendment which applies to this section, so it is still open to amendment in a way.

PRESIDENT EGAN: Mr. Barr moves that Mr. Hellenthal be granted the privilege of the floor for five minutes. All those in favor of granting Mr. Hellenthal the privilege of the floor for five minutes will signify by saying "aye"; all opposed by saying "no". The "noes" have it. Are there amendments to Section 3? Mrs. Hermann.

HERMANN: I would like a citation to the rule that says a motion to suspend the rules cannot be rescinded. It takes a two-thirds vote, whatever it was.

PRESIDENT EGAN: What was that, Mrs. Hermann? Mr. Doogan asked -- or moved that the Convention suspend -- or rescind the action taken on the suspension vote, is that right?

HERMANN: That is right.

PRESIDENT EGAN: Is that what you were referring to?

HERMANN: That is what I mean. I would like a citation to the rule that covers that.

PRESIDENT EGAN: Well, it would be in Robert's Rules of Order. It is impossible to reconsider a suspension of the rules, you cannot reconsider. Now, whether or not it is impossible to rescind -- the Chair will declare a two-minute recess.

## RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Doogan, the Chair will rule that the motion to rescind does not apply to a suspension of the rules, and the reason for that is that, if the motion to rescind did apply to a suspension of the rules, then any delegate any time a suspension of the rules was voted down could override that vote by a vote of 28 delegates, because it only takes 28 votes to rescind an action.

DOOGAN: Is it in order then, to ask for suspension of the rules again for the same specific amendment?

PRESIDENT EGAN: You might be able to do it at another meeting tomorrow but under Robert's Rules it isn't possible at this time. Mr. Rosswog.

ROSSWOG: I would like to move that we adjourn until 1:30 tomorrow afternoon.

PRESIDENT EGAN: Mr. Rosswog moves that the Convention adjourn until 1:30 tomorrow afternoon. Is there a second to the motion.

KNIGHT: Second the motion.

PRESIDENT EGAN: Seconded by Mr. Knight. The question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow?" Are there committee announcements? Mr. Londborg.

LONDBORG: Last evening, I went in with the back seat vacant. I would like to pick up three or four delegates. I don't think there is a need of calling a cab.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I don't believe in sitting on each others laps.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe that if we take a vote to adjourn and if it is a majority vote, then we should stay seated and arrange for transportation.

PRESIDENT EGAN: If this vote carries would the delegates stay in their seats and decide about how they are going to get to town. Mr. McNealy.

McNEALY: If the vote carries, then I would like definitely to have all members of the Ordinance Committee here by 1:00 tomorrow, and if some come earlier, that will be well, too.

PRESIDENT EGAN: Are there other committee announcements?

SUNDBORG: Style and Drafting will meet here immediately upon adjournment, whenever that is tonight.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Committee on Finance will meet very briefly immediately upon adjournment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Suffrage and Elections at 1:00 tomorrow afternoon in the usual room upstairs.

PRESIDENT EGAN: Suffrage and Elections 1:00 tomorrow, upstairs. Are there other announcements? If not, the question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow?" All those in favor of adjourning will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the Convention is still in session. Mr. Riley.

RILEY: If I may have the floor upon personal privilege for a moment?

(Mr. Riley then spoke on a matter of personal privilege.)

PRESIDENT EGAN: The Convention will come to order.

RILEY: As a matter of fact, Mr. President, in view of the change in time in that suggestion, I move now that we stand adjourned until 9:00 a.m. tomorrow morning.

PRESIDENT EGAN: Mr. Riley moves that the Convention stand adjourned until 9:00 a.m. tomorrow. Is there a second?

DOOGAN: Point of order.

PRESIDENT EGAN: Your point of order.

DOOGAN: We just had a motion for adjournment.

BUCKALEW: Not until 9:00 a.m.

COGHILL: I believe we had. Mr. Riley --

PRESIDENT EGAN: Mr. Riley was talking in between on what constituted business. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Knight. The question is, "Shall the Convention stand adjourned until tomorrow morning at 9:00 a.m.?" All those in favor of adjourning until 9:00 a.m. tomorrow will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention is adjourned.