

ALASKA CONSTITUTIONAL CONVENTION

February 1, 1956

SEVENTY-FIRST DAY

PRESIDENT EGAN: The Convention will come to order. Chaplain Henry A. Foss of Ladd Air Force Base is with us to give our daily invocation.

REVEREND FOSS: Eternal God and everlasting Father, Who has been our sustaining power in our lives during the past generations, we look up to Thee for guidance and direction of our minds and hearts in the preparation of these great plans; that may contribute to the welfare of our lives in the generations to come and the strengthening of our Nation. In His Name we pray. Amen.

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

(The Chief Clerk called the roll.)

CHIEF CLERK: Five absent.

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

WHITE: No, Mr. President, not yet.

PRESIDENT EGAN: That report will be held in abeyance until later in the day. Will the Chief Clerk please read the communications before us.

CHIEF CLERK: A telegram from Governor Averill Harriman expressing regrets that he could not attend the signing of the constitution and expressing his continued support for statehood for Alaska.

PRESIDENT EGAN: The communication will be filed. Are there reports of standing committees? Reports of select committees? Are there motions or resolutions to come before the Convention at this time? Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances has a resolution to introduce and it was presented in the Committee by Delegate Victor Rivers and it has been approved by the Committee.

PRESIDENT EGAN: If there is no objection the resolution may be introduced at this time. The Convention will be at ease while the resolution is distributed.

(The Convention was at ease for a few moments.)

PRESIDENT EGAN: The Chief Clerk may read the resolution for the first time.

CHIEF CLERK: "Resolution: Orderly Transition from Territorial to Statehood Status; addressed to the House of Representatives, the United States Senate, the Committee on Territories and Insular Possessions of the House and Senate, the Honorable E. L. Bartlett, Delegate in Congress from Alaska.

"NOW, THEREFORE; Be it resolved that, we the people of Alaska, through our Delegates in Constitutional Convention Assembled respectfully request and urge: That the Congressional Act admitting Alaska as a State of the Union provide and allow for the continued use of Federal appropriations for payment of the costs of these normal functions of government during the Federal fiscal year in which admission of Alaska as a State of the Union is granted, or until the operation of such functions is earlier assumed by the State."

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will ask unanimous consent that the rules be suspended and that the resolution be placed in second reading for Committee amendments.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the rules be suspended and that the resolution be placed in second reading. Is there objection? Hearing no objection, the resolution is now in second reading and the Chief Clerk may read the resolution for the second time.

(The Chief Clerk read the resolution entitled "Orderly Transition from Territorial to Statehood Status" for the second time.)

PRESIDENT EGAN: Are there amendments to be proposed to the resolution? Mr. Stewart.

STEWART: Mr. President, I have just noticed something here that ought to be called to attention. It refers to H.R. 2535 and S. B. 50 as the pending bills. Would that not be H.R. 2535 and S. B. 49, which are both in the same session of Congress? S. B. 50 is the previous session.

V. RIVERS: I will certainly accept the amendment if that is the case. I had only "50" before me; I thought it was the last one.

PRESIDENT EGAN: Mr. Stewart, do you ask unanimous consent that S. B. 50 be changed to read S.B. 49?

STEWART: I do.

PRESIDENT EGAN: If there is no objection it is so ordered and the amendment has been adopted. Are there other amendments to the resolution? Mr. Boswell.

BOSWELL: Mr. President, I just wondered about that word "pending", if these are actually pending bills or if they are just proposed bills and if there may not be another bill that may be introduced.

V. RIVERS: While we mention those two bills in the "whereas" in the body matter of the resolution, in the "resolve" part we say that any bill admitting Alaska to statehood contain these provisions, so those happen to be the two that are pending before the body for consideration. If you read before "consideration" -- "the pending bills presently under consideration by Congress " I think that covers the point. We are not necessarily implying that those will be the ones passed. Any one that is passed should, I believe, take consideration of this short time transition period which has been entirely overlooked. I might say that they have done a very good job in providing for the long range transition.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I would like to ask Mr. McNealy a few questions.

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

HELLENTHAL: How many resolutions have been passed on by the Committee on Resolutions?

MCNEALY: Mr. President, this resolution was handed to our Committee by Mr. Rivers, and we thought it was in the nature of a transitional measure, and in fact, it is the only resolution offered from our Committee.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Would there be any other committee that would have jurisdiction over the resolutions?

MCNEALY: Mr. Cross's committee. Mr. Cross is Chairman of the Committee on Resolutions and Recommendations.

HELLENTHAL: Perhaps I could direct my question to Mr. Cross. Do you know of resolutions other than this one and the one about Canada that will be presented here?

CROSS: No, we have none in Committee.

HELLENTHAL: One more question. Were these resolutions, in

case our resolutions are printed like Hawaii's Constitution. will they be printed with the constitution?

CROSS: It is my understanding that they will, although I am not certain.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I add a word for Mr. Hellenthal's information?

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

V. RIVERS: At the committee chairmen's meeting, Mr. McNealy and I were requested to discuss and cover this subject; that is how it happened to be passed into the Ordinance Committee, Mr. Hellenthal.

HELLENTHAL: All right, thank you. Does anyone know the answer to the question of whether these resolutions will be part of our printed constitution?

PRESIDENT EGAN: There hasn't been any definite understanding. so far as the Chair knows, to that question as yet. Mr. Victor Rivers.

V. RIVERS: My observation on the other constitutions that have had resolutions is that they have been in the form of the appendix. Mr. Hellenthal.

HELLENTHAL: Then they will be a part of the little printed book then?

V. RIVERS: I understand so, but then they are not actually a part of it, they are an appendix -- subsequent.

PRESIDENT EGAN: Are there other proposed amendments for the resolution? If not, is it the desire of the Committee that it be -- Mr. Victor Rivers.

V. RIVERS: I will ask unanimous consent that this amendment be allowed to follow the usual channel to Style and Drafting. Is that correct?

PRESIDENT EGAN: Under the ordinary procedure, Mr. Rivers, it would go to Engrossment and Enrollment, first. Mrs. Sweeney?

SWEENEY: Mr. President, I would suggest that it bypass Engrossment and Enrollment.

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

BUCKALEW: Maybe I am a little confused here. What are we doing? Has this thing been passed already?

PRESIDENT EGAN: No. It hasn't been passed as yet. It has been read the second time; amendments have been offered.

BUCKALEW: I thought somebody asked unanimous consent. I wanted to have an opportunity to vote against it.

PRESIDENT EGAN: If there is no objection, Mr. Buckalew, the Chair will refer the resolution to the Style and Drafting Committee. If there is no objection, it is so ordered.

SUNDBORG: May we revert to the order of committee reports?

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

SUNDBORG: Mr. President, the Style and Drafting Committee reports to the Convention its redraft of the first 24 sections of the Schedules of Ordinances and Transitional Measures. It also reports to the Convention its redraft of Section 25, the Alaska-Tennessee Plan of the Schedule of Ordinances and Transitional Measures.

PRESIDENT EGAN: If there is no objection, Article XIV, Section 25 of the schedule will be read before the Convention and the report of the Style and Drafting Committee will be read at this time.

CHIEF CLERK: "Article XIV. Schedule.

"Section 25. The election of senators and a representative to serve in the Congress of the United States being necessary and proper to prepare for the admission of Alaska as a State of the Union, the following is hereby ordained, pursuant to Chapter 46, SLA 1955:

(1) Each elector who offers to vote upon this constitution at the ratification election shall be given a separate ballot by the election judges which shall contain the following proposition:

'Shall ordinance No.____ (Alaska-Tennessee Plan) of	_____
the Alaska Constitutional Convention, calling for	Yes
the immediate election of two United State Senators	_____
and one United States Representative, be adopted?'	No

(2) Upon ratification of the constitution by the people of Alaska and separate approval of this ordinance by a majority of all votes cast for and against it, the remainder of this ordinance shall become effective.

(3) Two persons to serve as members of the senate of the United States and one person to serve as a member of the house of representatives of the United States shall be chosen at the

1956 general election.

(4) One senator shall be chosen for the regular term expiring on January 3, 1963, and the other for an initial short term expiring on January 3, 1961, unless when they are seated the senate prescribes other expiration dates. The representative shall be chosen for the regular term of two years expiring January 3, 1959.

(5) Candidates for senators and representative shall have the qualifications prescribed in the constitution of the United States and shall be qualified voters of Alaska.

(6) Until the admission of Alaska as a state, the senators and representative may also hold or be nominated and elected to other offices of the United States or of the Territory of Alaska, provided that no person may receive compensation for more than one office.

(7) Except as provided herein, the laws of the Territory governing elections to the office of delegate to congress shall, to the extent applicable, govern the election of the senators and representative. Territorial and other officials shall perform their duties with reference to this election accordingly.

(8) Persons not representing any political party may become independent candidates for the offices of senator or representative by filing applications in the manner provided in Section 38-5-10, ACLA 1949, insofar as applicable. Applications must be filed in the office of the director of finance of the Territory on or before June 30, 1956.

(9) Party nominations for senators and representative shall, for this election only, be made by party conventions in the manner prescribed in Section 38-4-11, ACLA 1949, for filling a vacancy in a party nomination occurring in a primary election. The names of the candidates nominated shall be certified by the chairman and secretary of the central committee of each political party to the director of finance of the Territory on or before June 30, 1956.

(10) The director of finance shall certify the names of all candidates for senators and representative to the clerks of court by July 15, 1956. The clerks of court shall cause the names to be printed on the official ballot for the general election. Independent candidates shall be identified as provided in Section 38-5-10, ACLA 1949. Candidates nominated at party conventions shall be identified with appropriate party designations as is provided by law for nominations at primary elections.

(11) The ballot form shall group separately the candidates seeking the regular senate term, those seeking the short senate term

and candidates for representative. The candidate for each office receiving the largest number of votes cast for that office shall be elected.

(12) The duties and emoluments of the offices of senator and representative shall be as prescribed by law.

(13) The president of the Alaska Constitutional Convention, or person designated by him, may assist in carrying out the purposes of this ordinance. The unexpended and unobligated funds appropriated to the Alaska Constitutional Convention by Chapter 46, SLA 1955, may be used to defray expenses attributable to the referendum and the election required by this ordinance.

(14) If the Congress of the United States seats the senators and representative elected pursuant to this ordinance and approves the constitution before the first election of state officers, then Section 1 of Article XIV shall be void and shall be replaced by the following:

'The provisions of the constitution applicable to the first election of state officers shall take effect immediately upon the admission of Alaska into the Union as a State. The remainder of the constitution shall take effect when the elected governor takes office.'

PRESIDENT EGAN: Mr. Sundborg, does your Committee have a report to make on this matter at this time?

SUNDBORG: Mr. President, Style and Drafting had already worked to some extent on this section prior to the time it was before the Convention yesterday. It was given another going over at a very late hour last night. I notice that on page 3, line 3, there is a typographical error. I ask unanimous consent to correct the spelling of the word "provided".

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the change is ordered.

SUNDBORG: Mr. President, the last time this was before us it was identified as Article XIV, Schedule, and the section number was blank. It is what has been known to the Convention as Committee Proposal No. 17/c, Revised, and later as Committee Proposal 17/c, Second Revised. It is now given Section No. 25, which may prove to be tentative in the final arrangement of the constitution, but we do have every number filled now -- one through 25 of the Schedule of Ordinances and Transitional measures. Very few changes have been made in the draft since we received it last night. I call your attention to one change on the first page, on line 7. Previously the section said "each qualified voter". It has now been changed to "each elector". Throughout our constitution we have used the term

"qualified voter" and we described that in the constitution so there is no doubt what it means, but since that is a provision which if ratified will go into effect prior to the time our constitution will, we thought it best to use the terminology of the present Organic Act and the Alaska statutes, and they use the term "elector", so we used the term "elector". On lines 9 and 10, page 1, we have reinserted a phrase which was in the original form of the section as it came to us from the Ordinance Committee. That phrase is "by the election judges", the provision being that each elector will be given a separate ballot "by the election judges", which we believe is probably necessary as something of a mandate to those conducting the election. On page 3, the most important change in the redraft will be noted. What was Section 8 has been dropped entirely. I will read Section 8 as it was in the draft that was reported to you yesterday. It was the section dealing with filing -- rather the subsection. This is all one section and these numbers are subsections. Subsection 8 said: "All candidates for senators and representatives must file declarations of candidacy with the Director of Finance of the Territory on or before June 30, 1956. Each candidate shall pay a filing fee of \$40." After a great deal of discussion and consultation with our advisers, the Style and Drafting Committee decided to drop any requirement that persons desiring to become candidates for these three offices would have to file declarations of candidacy. This was done in line with the present Territorial law which does not require a declaration of any candidate except those who desire to run in the primary on party ballots. The requirement, further, that a \$40 filing fee be posted has been dropped and this also is in line with present Territorial law. The filing fee is required only of candidates who desire to have their names on the primary election ballot and we are advised that the theory is that the federal government, which conducts the elections, runs the primary rather as a matter of convenience to the Territory, and in view of that, it is advisable or appropriate for the candidates who desire to have their names on that ballot to pay a filing fee. At the present time, anyone who wants to run as an independent on the general election ballot need not pay a filing fee, and that is the same provision which we think should govern this election of senators and a representative for Congress, so what was Subsection No. 8 has been dropped entirely. I am sure some of you will have questions about that, but if I may go on and tell you what else we have done to the draft, we will be available to answer questions after that presentation. What is now Section 8 is almost identical with what was Section 9 of the former draft. The thing that is new about it is that we have provided in this section for a date by which the application for getting a man's name on the ballot must be filed with the Director of Finance. That was formerly in the old Section 8 which has been dropped. Section 9, again, is practically identical with what was Section 10 of the former draft and again we have added the date by which the application must be filed. What is now Section 11

is changed very slightly from what was Section 12 of the former draft. Section 12 formerly had a first sentence which said, "Each declaration of candidacy shall clearly indicate whether the candidate for senator is seeking the regular or the short term." And since we are proposing to drop the requirement that there be a declaration of candidacy, we have dropped that sentence. Mr. President, I believe those are the only changes except for minor changes in phraseology which have been made in this redraft.

PRESIDENT EGAN: Are there questions? Mr. Davis.

DAVIS: Mr. President, I would like to ask Mr. Sundborg a question. Mr. Sundborg, line 23, page 3, Section 9, my notes indicate that we had "as amended" following the reference to the statutes. I think that section has been amended and I think we should put in the words "as amended" which seem to have been left out of the new redraft.

SUNDBORG: Mr. President, it is true that we did have that in one of our working papers, but I had understood from a remark by Mr. Johnson that he had checked the matter and that section had not been amended. I would like to ask Mr. Johnson if that was his understanding.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President and Mr. Sundborg, I believe that is correct as to Sec. 38-4-11, ACLA 1949. In checking that section last night we found that that particular section had not been amended. However, the section in the previous article or previous subparagraph (a) which is designated as 38-5-10, ACLA 1949, I believe that one was amended. However, I am not in a position to state definitely. I only checked the one section.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I checked 38-5-10 yesterday and it had not been amended if the little slipsheet in the code prepared by the Legislative Council is correct. I checked the other reference that was made yesterday. I don't remember it being 38-4-11. Is that a new reference that came in last night?

JOHNSON: It is the same one.

HELLENTHAL: Well, then it has not been amended either, because, as this appeared in yesterday's version, it was not amended according to the Legislative Council pamphlet, and I cannot vouch for its accuracy.

SUNDBORG: We checked it in the same place, Mr. President, and that was the reference. Now in order to check it thoroughly, it would be necessary to look at each volume of the session laws

since 1949 and we do recommend very strongly that that be done, and that all references to sections of the statutes be checked before this is finally printed. We will do that as a matter of course.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, yesterday, I think it was Mr. Riley, in former Section 10, line 18, page 3, he changed the word "in", as I recall, to the word "after". There was some explanation given. I notice that you use "in" again now. I was just wondering why you went back to the "in".

SUNDBORG: That is an error if we used "in", Mr. Robertson. What line was that in the new draft?

ROBERTSON: In yesterday's draft it was on line 18, page 3, and in today's, it's line 24, page 3.

V. FISCHER: In the new draft it's on line 3, page 25.

SUNDBORG: Mr. President, I ask unanimous consent that on the report you have before you in Section on page 3, line 24, the word "in" after the word "vacancy" be stricken and the word "after" inserted in its place.

UNIDENTIFIED DELEGATE: That's the wrong one.

SUNDBORG: Is that the wrong one?

DAVIS: That is the second "in".

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: In the "in" near the end of the line after the word "occurring".

SUNDBORG: Mr. President, I withdraw my unanimous consent request, and ask that the word "in" after the word "occurring" be changed to the word "after".

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection the change is as ordered.

R. RIVERS: Mr. President, "nominations occurring 'after' a primary election"? It means after the party conventions have made the nominations. What primary is involved here?

SUNDBORG: Mr. President, maybe if we read the whole sentence we can get the idea. It says "Party nominations for senators and representative shall, for this election only, be made by party conventions in the manner prescribed in Section 38-4-11,

ACLA 1949, for filling a vacancy in a party nomination occurring after a primary election."

R. RIVERS: Thank you, Mr. Sundborg.

SUNDBORG: In other words, under the present statutes, if a candidate's name which was to go on the ballot following a primary cannot go because he has resigned or died or something, the parties do, by conventions, propose somebody for that place, and it is in the same manner that the party conventions would operate here.

PRESIDENT EGAN: Is there objection to the proposed change? If there is no objection the change is so ordered. Mr. White.

WHITE: Mr. President, may I address a question to Mr. Sundborg? Mr. Sundborg, don't I recall that yesterday the Style and Drafting Committee was given authority to look into and deal with the matter of providing for filling of vacancies that might occur in these offices after elections thereto?

SUNDBORG: Mr. President, I do remember a comment to that effect. I don't think we were actually by action of the Convention given that authority and I would have to report that we haven't given it any particular attention.

PRESIDENT EGAN: It is not the recollection of the Chair that the Committee was so instructed. Mr. Buckalew.

BUCKALEW: My best recollection was that I made a motion and asked unanimous consent to that effect.

PRESIDENT EGAN: The Convention will be at recess while the Chief Clerk checks the record.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read from the record with relation to this subject.

CHIEF CLERK: "Mr. Buckalew moved and asked unanimous consent that the Style and Drafting Committee be authorized to take care of the matter that had been presented by Mr. Londborg and to confer with the Ordinance Committee." The question had been raised by Mr. Londborg.

PRESIDENT EGAN: Are there other questions relating to the report of the Style and Drafting Committee?

V. RIVERS: Mr. President, I thought I had this straight in my mind. The Committee introduced 17, they then withdrew it and introduced 17/a, and then they introduced 17/b and 17/c at a

later date. I am trying to get straightened out on the resolve clause. I notice on this 17/c we have, it says "Resolved, that the following sections be adopted as a part of the schedule of the Alaska State Constitution." That has to do with the Tennessee Plan. Now on the 17/b I notice it says, "Resolved that the following be agreed upon as apart of the Alaska State Constitution." And the word "schedule" again appears there. The enacting clause here is somewhat different. I am trying to follow the chronology of this thing.

PRESIDENT EGAN: Will the Chief Clerk please explain what happened.

CHIEF CLERK: What happened was that 17 was withdrawn and 17/b takes the place of 17. 17/a and 17/c were presented later for action, but 17/b is what takes the place of 17.

V. RIVERS: Well, now are they all schedules? Do they all have the same enacting clause or is there some difference between a, b, and c?

CHIEF CLERK: They all go under Article 14, part of this schedule.

V. RIVERS: I want to understand that because in the Executive we withdrew an article and then we marked it "a" to show that it was a substitute it had been replaced for. I am wondering about the difference in the enacting clause here of these two.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, that is a question which arose in our Committee last night. The rules of the Convention provide that all proposals must carry an enacting clause and the wording of that enacting clause is set forth in our rules. Now one of our members brought up the question, "Are these actually a part of our constitution -- these ordinances?" If they are not, probably our standard enacting clause which says -- I don't seem to have it. I believe the standard enacting clause says, "Resolved, that the following be agreed upon as part of the Alaska State Constitution." And the question was raised, is that really correct? Of course that is the only thing provided in our rules. Now I can't explain when these words a part of the schedule of" got into the enacting clause on the schedule. They weren't put in by our Committee, I believe. It may be they were in that form when we received them from the Ordinance Committee.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the Ordinance Committee may have -- in some little haste I believe, I think the correct manner is that it should be -- of course they possibly will have to

confine with the rules. I believe the wording "the following sections be adopted as a part of the schedule of the Alaska State Constitution" is the correct language that should be used because all of the court decisions refer to the schedule of ordinances as being appended to the constitution. They are not considered a part of the main body, and I believe there should be that little differentiation.

PRESIDENT EGAN: Would it be wise at this time to take a brief recess? The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other questions to be directed to the Committee? Mr. McNealy.

MCNEALY: At this time, Mr. President, I move and ask unanimous consent that the rule of the Convention concerning the resolve clause be amended in respect to the schedule to the constitution so that the words: "Resolved, that the following sections be adopted as a part of the schedule of the Alaska State Constitution," rather than saying that "the following sections be adopted as part of the constitution".

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, the Rules Committee took it upon itself to meet during recess and we haven't as yet gotten in touch with Mr. McNealy, but his thinking parallels ours and we should just like to throw this out just for his views of it. We thought we should pursue the same course but include ordinances, transitional measures, schedules, in proposing a rule to cover the situation. Our language would be of this nature: "For purposes of schedules, ordinances, and transitional measures, the enacting clause shall be: 'Resolved, that the following be agreed upon as part of the schedule accompanying the Alaska State Constitution.'" I might ask Mr. McNealy through the Chair, if I may, if that would be agreeable to him?

PRESIDENT EGAN: Do you have objection to that wording, Mr. McNealy?

MCNEALY: I wonder if Mr. Riley would consent to using the word "appended" rather than "accompanying".

RILEY: Without objection from the Committee it is agreeable.

MCNEALY: In that event then, Mr. President, I will withdraw my motion for unanimous consent.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed unanimous consent request then, with the change being the words "appended to".

RILEY: "As part of the schedule appended to the Alaska State Constitution."

CHIEF CLERK: "For purposes of schedules, ordinances, and transitional measures, the enacting clause shall be 'Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution.'" "Schedule, ordinances and transitional measures" would go in there?

RILEY: I did not hear your last question.

CHIEF CLERK: Well, "For purposes of schedules, ordinances and transitional measures, the enacting clause shall be 'Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution.'"

RILEY: Yes, and I ask unanimous consent, Mr. President.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Riley. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, in line with the action just taken, I now ask unanimous consent that in the schedule now before you, Section 25 of Article XIV" on the first page, in the enacting clause, we drop the word "A" before "part" on the second line, and after the word "the" before "Alaska" we insert "schedule appended to the" so that it would read: "Resolved, that the following..." I also ask unanimous consent to include in the request the dropping of the word "sections" from the first line of the enacting clause as it appears, so that it would read "Resolved that the following..." I see that this differs in several respects. I also want to include striking "adopted" in the first line and substituting "agreed upon" so that it would read, "Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution".

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the change be adopted. Is there objection? Hearing no objection, it is so ordered. Mr. McNeese.

MCNEESE: May we have that read again.

PRESIDENT EGAN: Would the Chief Clerk please read the resolve clause as it would read now.

CHIEF CLERK: "Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution."

PRESIDENT EGAN: Are there other questions relating to Article XIV? If not, what is the pleasure of the Chairman of the Style and Drafting Committee?

SUNDBORG: Mr. President, to handle the question of filling vacancies which I had overlooked and which was assigned to us yesterday by unanimous consent, I would like to request a brief recess during which the Ordinance Committee and Style and Drafting Committee can meet to consider this. I do not think it would take us more than a very few minutes.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Perhaps we could combine it with the normal morning recess so we wouldn't be playing musical chairs.

PRESIDENT EGAN: If there is no objection the Convention will be at recess until 10:25 a.m. Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment will meet, also, at this time.

PRESIDENT EGAN: Engrossment and Enrollment Committee will meet at this time in the gallery. Are there other committee announcements? If not, the Convention is at recess until 10:25.

RECESS

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

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal 17/a, has compared same with the original and find it correctly engrossed and the first enrolled copies will be placed on the delegates' desks immediately. I ask unanimous consent that the report be adopted.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report of the Committee on Engrossment and Enrollment be accepted and adopted. If there is no objection, it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, reporting for the Committee on Style and Drafting, we have considered together with the Ordinances Committee during recess the problem of whether the section about the Tennessee Plan should contain any provision with respect to vacancies in office and we desire to present a Committee amendment. Since it is substantive I would first ask that the rules be suspended and that the Committee on Style and Drafting be permitted to present an amendment, which would be as follows: on page 2, line 19, that is in Section 4, at the end of the line, add a new sentence as follows: "Any vacancy in these offices may be filled as prescribed by law."

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended in order that this amendment might be offered. Is there objection? Hearing no objection, the

rules have been suspended. Mr. Sundborg, you may present the amendment.

SUNDBORG: Mr. President, I now, on behalf of the Style and Drafting Committee, offer the amendment. I wonder if the Chief Clerk would read it, to be sure.

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

CHIEF CLERK: "Page 2, line 19, in Sec. 4, at the end of the line, add a new sentence as follows: 'Any vacancy in these offices may be filled as prescribed by law.'"

PRESIDENT EGAN: Mr. Sundborg.

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

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

COOPER: I do not object, but shouldn't it say, "shall be filled as prescribed by law" rather than "may"? This is mandatory that the office "shall" be filled.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it was our feeling and also that of the Ordinance Committee and I believe it was unanimous that there should not be a mandate that the office had to be filled. We wanted to leave that to the judgment of the legislature in view of the situation at the time a vacancy might occur.

COOPER: I realize that, Mr. President, but the people of Alaska will elect two senators and one representative and certainly we shouldn't have a job being done by two-thirds or in case where it might be possibly a third. Mr. President, I move that the word "shall" be inserted for the word "may".

PRESIDENT EGAN: Mr. Sundborg, do you so move the adoption of the amendment?

SUNDBORG: I do move, Mr. President.

PRESIDENT EGAN: Is there a second?

HERMANN: I second it.

PRESIDENT EGAN: Seconded by Mrs. Hermann. Mr. Cooper.

COOPER: I'm sorry, I was out of order. Mr. President, I have an amendment.

SUNDBORG: Mr. President, could I suggest that we first vote this one into the article, then if Mr. Cooper wants to change "may" to "shall", to do it after that, just to keep from getting it balled up here. I renew my unanimous consent request that this sentence be added.

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

COOPER: Mr. President, I have an amendment. I propose to strike the word "may" and insert the word "shall".

PRESIDENT EGAN: Mr. Cooper moves that the word "shall" be substituted for the word "may" in the amendment just adopted.

KILCHER: I second it.

PRESIDENT EGAN: Seconded by Mr. Kilcher. Mr. Cooper.

COOPER: Mr. President, I feel that the word "shall" should be in there inasmuch as these men are going to, these representatives of Alaska are going to Washington D. C., theoretically, and they have a battle. They have a big battle and they certainly should be there in force.

JOHNSON: Point of order, Mr. President.

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

JOHNSON: Should not the rules be suspended?

PRESIDENT EGAN: Mr. Johnson, you are correct, and that is why we had to go on with the adoption of the amendment. Mr. Cooper, first you would have to ask that the rules be suspended.

SUNDBORG: I ask unanimous consent, Mr. President, that the rules be suspended for the offering of this amendment.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended in order that Mr. Cooper might offer his amendment. Hearing no objection, the rules are ordered suspended. Mr. Cooper.

COOPER: May I offer an amendment, that the word "shall" be inserted for the word "may"?

PRESIDENT EGAN: You may offer it, Mr. Cooper.

KILCHER: I'll second it.

PRESIDENT EGAN: Mr. Cooper offers an amendment changing the word "may" to "shall"; the motion has been seconded by Mr.

Kilcher. Is there discussion? Mr. Kilcher.

KILCHER: Mr. President, I don't think if we insert the word "shall" for "may" that it is a mandate that these men should have to be replaced. It is a mandate only to follow the law. If the legislature should make a law pertaining to this question, then the law should be observed. If the law that the legislature enacts says we don't want them there any more, then that law shall be observed. "Shall" has only a bearing on the observation of the law and not on the substantive question of whether there shall be any future senators sent to Washington, or their successors.

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

COOPER: I want to close by saying that I interpret it as any vacancy "shall" be filled as prescribed by law. I don't interpret it as Mr. Kilcher interprets it.

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

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Are there other questions or amendments to be offered? Mr. Sundborg.

SUNDBORG: Mr. President, I have another Committee amendment. I ask unanimous consent that the rules be suspended to permit the Style and Drafting Committee to submit an amendment which would be an amendment to Subsection 1, page 1, line 9, to strike the word "separate". I ask unanimous consent that the rules be suspended.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent.

HELLENTHAL: I object.

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

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended.

HERMANN: I second.

PRESIDENT EGAN: Seconded by Mrs. Hermann that the rules be suspended. The question is, "Shall the rules be suspended in order that the amendment might be offered?" The Chief Clerk will call the roll.

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

Yeas: 42 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nordale, Riley, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 7 - Laws, McCutcheon, Nolan, Poulsen, Reader, Rosswog, Taylor.

Absent: 6 - Coghill, Doogan, V. Fischer, Marston, Peratrovich, R. Rivers.)

CHIEF CLERK: 42 yeas, 7 nays and 6 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Sundborg.

SUNDBORG: Mr. President, I move on behalf of the Style and Drafting Committee that in Subsection 1, page 1, line 9, the word "separate" be stricken.

PRESIDENT EGAN: Mr. Sundborg moves on behalf of the Style and Drafting Committee in subsection 1, page 1, line 9, the word "separate" be stricken.

KILCHER: I second.

PRESIDENT EGAN: Seconded by Mr. Kilcher. Mr. Sundborg.

SUNDBORG: Mr. President, if I may? The Style and Drafting Committee together with the Ordinance Committee gave quite a bit of thought to this during the recess and our thought is that we feel that each of the propositions to be presented to the voters in connection with the Alaska State Constitution should be on a ballot which is separate from the ballot which will contain the names of the primary election candidates, but we believe that each of these questions, and we are assuming that there are three of them, should be on the one ballot so that the election officials won't have the task of sorting and getting out to the precincts all over this Territory three separate slips of paper; one on "shall the constitution be ratified," one on shall the fish trap ordinance be ratified," and one on the Tennessee Plan. We just thought that would be more confusing to all concerned than if the three propositions could be set forth on a single piece of paper, and that was our purpose in striking the word "separate" here. We would want to propose an amendment when we get to Article XIV, the first 24 sections of the schedule, which would specifically set forth that there should be a ballot separate from the primary election

ballot, but that all propositions dealing with the constitution be on that ballot.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I might also add that the conservation of costs was involved. It might make a difference of two or three thousand dollars.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Sundborg a question?

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

HELLENTHAL: Mr. Sundborg, I know is much more familiar with printing than I am. Would it save two or three thousand dollars?

SUNDBORG: It would cost considerably more, Mr. Hellenthal, I know, to print them on separate ballots than it would on a single ballot, but I couldn't say how much without knowing how many ballots would be printed.

HELLENTHAL: Would it be more than \$100?

SUNDBORG: Oh, much more than that.

HELLENTHAL: How much more?

SUNDBORG: I couldn't say without knowing --

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

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

KILCHER: We dealt with this question in the Administration Committee a couple of months ago and the proportionate share of a ballot of this kind involved, the Convention's share of the printing would be several thousand dollars and we arrived at the difference there. It is not only the cost in printing but also the cost in the election. It would take more time, it would take more time involved for the election judges. The accrued total costs involved would possibly be two or three thousand dollars.

HELLENTHAL: Are election judges paid by the hour now?

UNIDENTIFIED DELEGATE: Yes.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify

by saying "aye"; all opposed by "no". The "ayes" have it and the amendment is ordered adopted. Are there other questions or proposed amendments for Article XIV of the schedule? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further questions, I would like to ask unanimous consent that the rules be suspended, that Section 25 of Article XIV, the section dealing with the Alaska-Tennessee Plan, be advanced to third reading, be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg, before the Chair puts that, have you moved to accept the report yet?

SUNDBORG: I'm sorry. I withdraw the motion just offered and ask unanimous consent that the report of the Style and Drafting Committee with respect to Section 25 of Article XIV, the schedule, dealing with the Alaska-Tennessee Plan, be accepted and that the amendments therein be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee with relation to Article XIV, the schedule, be accepted and that the changes therein be adopted. Is there objection? Your question, Mr. Buckalew?

BUCKALEW: Did you have another amendment, Mr. Sundborg?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I am not aware of one, but I would ask Mr. Buckalew to call one to my attention if he thinks we do.

BUCKALEW: I thought you had some additional language that Mr. Davis had prepared with reference to a separate ballot for the question pertaining to the constitution, the three propositions and the candidates for congressional offices?

SUNDBORG: Mr. Buckalew, our proposal was that that be inserted, not in Section 25 but in one of the first 24 sections of the schedule which we are going to consider next on the calendar.

PRESIDENT EGAN: The report of the Committee on Style and Drafting is ordered accepted and the changes adopted. Mr. Sundborg.

SUNDBORG: I now ask unanimous consent that the rules be suspended, that Section 25 of Article XIV, the section dealing with the Alaska-Tennessee Plan, be advanced to third reading, be read by title only and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the rules be suspended, that Section 25 of Article XIV, the section

dealing with the Alaska-Tennessee Plan, be advanced to third reading, read by title only and placed on final passage. Is there objection? Hearing no objection, the rules have been suspended and Article XIV, Schedule, Section 25, is now before us in third reading. The Chief Clerk will read the title.

CHIEF CLERK: "Article XIV, Schedule, Section 25."

LONDBORG: Mr. President, are the other sections of Article XIV going to be taken individually, or is this the only one?

PRESIDENT EGAN: Mr. Londborg, as the Chair recalls it, there is a long list in one of the schedules that will be known as Article XIV. They will all go together in the appendix of the constitution, though. The question is open for discussion. Mr. Nolan.

NOLAN: May I ask the Chairman of the Committee a question on Section 12?

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

NOLAN: Where the duties and emoluments of the offices of senators and representative shall be as prescribed by law, was it the thinking of the Committee that this would be a moral obligation on the part of the Territory to pay the full senatorial and congressional salaries and expenses and so forth, or is this asking the Territorial legislature to set up a certain sum to take care of that?

MCNEALY: Mr. Nolan, there may be others on the Style and Drafting Committee that could add further to what I might say here, but it was the thought of the Ordinance Committee that the legislature might do as they see fit regarding the prescribing of duties and emoluments of office. However, our primary thought in this was referring -- it may be a little ambiguous here but possibly purposely so -- that the federal government when they were seated, this was also tossed in to take care of that; their duties and pay would be prescribed by federal law and it actually is no directive in one sense of the word to the legislature, because the feeling of the Ordinance Committee was that, in our opinion, that the legislature has no power to provide salaries for these men. Mr. Davis expressed it very well in a joint meeting here, I think, in that regard when he said that, if the legislature hadn't passed such a law providing salaries and other expense that he thought the members of the house and members of the senate would go into the law at that time to see if they had the power to do so.

NOLAN: Does the Committee feel that Congress would, or has there been any precedent established that Congress would make it retroactive? Suppose it takes three or four years for us to achieve statehood?

MCNEALY: Mr. President, in the precedents to this, the senators and representatives selected were only paid from the time they were seated and I assume that would be the same here.

NOLAN: Well, that is one thing I would like to have made clear for the record here so that maybe the next legislature would have something to go on. I have always been in favor of our Delegate having an assistant, at least one assistant back in Washington, and quite substantial help with money appropriated from the Territorial legislature and I was wondering whether it was the intent of the Committee to have the next legislature probably increase the appropriation to the Statehood Committee and let the Statehood Committee pay these people; or whether the Committee actually felt that these three people going back to Congress should receive the \$22,500 plus their expenses, or whether it would be up to the legislature. The legislature could turn over a certain amount of money to the Statehood Committee to see that these people's expenses are paid. If they only get paid by Congress from the date they are seated, and it might be three years and someone is going to have to take care of that, and I think the people of the Territory should know whether this is going to cost a full Congressional salary at the time these people are sent back by the legislature.

MCNEALY: Mr. President, I believe that Mr. Nolan, in fact, answered what was the majority, at least the majority opinion of the Ordinance Committee that we felt that possibly the better and safer way for the legislature to handle it would be to make an appropriation to the Statehood Committee who could in turn possibly provide them with per diem and their expenses in Washington.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, the Section 12 that Mr. Nolan has been talking about is in this article by action that I initiated Sunday here. I wanted to make it clear that these senators and representatives were only going to be paid as provided by law. I didn't want to leave it hanging that anybody was going to pay them their salaries as such from the Territory. I look at it this way: if and when these folks are seated as members of Congress they will be paid by the federal government as other senators and congressmen are paid and until that time they won't get anything at all from the federal government, and in my opinion, certainly any action by Congress will not be retroactive; it will only run from the time they are seated. Second, if the Territory sees its way clear to make some provision for these folks, then that will be according to what provision they make, but in making the motion Sunday it wasn't my intention that we were making any obligation on the Territory, moral or otherwise. These folks, as I see it, are strictly on their own as far as salary or expenses go until and unless some

provision is made by law for them, and I think that is the way it should be, and I just wanted to make it clear that we are not obligating anybody by this action to pay these folks either salary or per diem until and unless the legislature provides for it by one manner or another, whatever may seem wise or until they are seated as members of Congress, in which case they will receive their regular pay and expenses as members of Congress.

PRESIDENT EGAN: Is there a debate on the question? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to say a few words, and a very few only, on behalf of the Alaska-Tennessee Plan itself. I think all of us have become well aware of just what is involved here. I think it is a plan which has captured the imagination of this Convention. I am sure that it will capture the imagination of Alaskans to just about the same extent and that it will be adopted by them at the ratification election in April and I am very hopeful that it will similarly capture the imagination of the people of the United States. I feel that it is a bold plan, a forward-looking plan, which is in the best traditions of Alaska and also in the best traditions of the Nation and I hope it will be the avenue to statehood for Alaska.

PRESIDENT EGAN: Mr. Cooper?

COOPER: May I ask Mr. Davis a question?

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

I know that this Subsection 12 has been discussed several times on the floor but I can't possibly see how a representative -- three representatives of the people of Alaska that are going to go to the expense, or be put to the expense of going to Washington, D. C. for an unknown amount of time, duration of time, to be subjected to considerable expenses, I cannot see how the men, or the representatives could possibly seek the positions without some form, shall we say, of guaranteed reimbursement for expenses or for salary and certainly the candidates that will be put up by the parties should have some remuneration for the contract that exists between the people of the Territory of Alaska and their representatives at the Congress. Couldn't this possibly be explained, even if it has to be in detail, so that there can be some allowance or some provision made by the legislature for salaries or expenses for these representatives that we are sending to Washington, D. C.?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President and Mr. Cooper, to begin with I do not envision that we are making a contract with anybody. These

folks who desire to be senators and representatives are strictly on their own. They will know when they run exactly what they are up against. They may or may not be paid expenses and they may or may not be paid a salary depending on what develops. In the second place, I think that we are not proceeding any different here from the proceeding that has taken place in the other states that have used this same plan. The parties go in hopes that through their efforts their territory may be granted statehood. If their hopes are fulfilled and statehood is granted by Congress, they are seated as full-fledged senators and representatives. If their hopes are not fulfilled, then, of course, they are ambassadors of good will. Now, it would be my belief that, whatever may happen on the Tennessee Plan, that the folks of Alaska would be well served by having additional men in Washington and I am assuming that we are going to send the very best men that we may have to do the job. To my notion, almost anytime that a congressman or a senator has come to Alaska, has met our people, has seen our problems, he has gone away a friend of Alaska. I know of no exceptions to that. I think the same thing is true of senators and representatives who have met our people in Washington and have taken time to talk with them. Almost without exception they have been our friends. Our problem in Washington comes because people do not understand us. I think we have to realize that many, many people in the states still think that this is a barren land of ice and snow and people up here are somehow different from other Americans, and whatever it may cost, in my opinion, will be well worth the cost to have senators and representatives back there with, so far as we are concerned at least, the titles of senators and representatives; back there meeting the national figures, meeting the senators and representatives and presenting our problems and our points of view to these folks. I think that when they are back there the folks in Congress are going to find that after all we are just like anybody else. But as far as pinning it down now and saying we are going to pay the senators and representatives any stated amount, or any amount at all, for compensation or for salary, in my opinion, would be unwise, beside the fact that we certainly don't have any money and we certainly don't have any authority to bind the legislature one way or another. For that reason I think we should go no farther than we have here, to say that their compensation shall be as provided by law.

PRESIDENT EGAN: Mr. Marston.

MARSTON: May I elucidate on that answer?

PRESIDENT EGAN: You may, Mr. Marston.

MARSTON: The Federal Constitution had this same problem, Mr. Cooper, and some of the states were unable to send their delegates to the Constitution because they didn't have the money,

but in one case a wealthy merchant put up the money and they finally arrived, late, at the Federal Convention. There are enough men with enough enthusiasm in the Territory of Alaska to find the money to pay the expenses, at least, of these men down there if necessary, much like the missionaries raise lots of money from the public to come to this land, we are in turn going to send missionaries back there and tell them we eat meat and wear clothes just like they do.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. President, I just want to say a few words. I think this is a very good publicity plan but I still cannot give it my wholehearted support and I will have to vote against it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I'd just like to bring in a thought or two here as

I see it. The first consideration we gave this plan was two or three days ago and I went in support of it then because I hoped as we had it presented it could have been amended to make it more workable, but it went the other way and yesterday I deviated from the support of the plan. There are still some things that I think we are asking for that may lead into trouble just because we want to sidestep the issue, or whatever the reason it may be, as far as taking time to work it out. With no guarantee at all, it has also been more or less mentioned here that these three men that go out there will be on their own. They may not be supported at all as far as we know if the law does not guarantee it or the law does not provide: that is going to leave it up to the ones who can see their way clear financially unless they have a friend or group of friends that will do as Mr. Marston said, sort of get back of them and say, "Well, if you get back there and don't get the support, we will back you up." I don't know if that is best. This selection of candidates will take place in a very short time, within about three months and these men that volunteer their services will be doing that without any guarantee whatsoever. Now, anyone that would be willing to do that and spend their money or time with nothing definite -- well, I will say we will have to give them a lot of credit for that and I hope they will be successful within a few days after arriving there so that they can be seated and be on the federal payroll the same as the rest of them. But looking at the other side, if that is not the case, then we have a situation where these men will be volunteering, one for a period of two years, one for a period of four years, and one for a period of six years with no guarantee whatsoever of support, and our people are not going to know when they vote on this how much they are going to be obligated. Also, as I mentioned yesterday, in Section 12, regarding the duties, there is a period of time when these men will be out there and they will have no prescribed duties; they

will be on their own. The Statehood Committee cannot prescribe their duties and neither can anyone else. It will have to be as prescribed by law and they will be out there and I don't know who they will be legally responsible to one way or another. I think we could have clarified some of these points. Now, I bring them out just for the matter of the record, that this plan isn't as complete as I believe it should be. However, as I voted Sunday, I am in favor of the Alaska-Tennessee Plan, and I think we should have one. I am going to vote in support of this one although my better judgment tells me that there are certain portions very unsatisfactory and very unworkable, but, if this is the best we can do, I will give it my support.

PRESIDENT EGAN: Mr. Cooper.

COOPER: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection.

UNIDENTIFIED DELEGATE: Object.

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

MCNEES: May we extend that a few minutes, Mr. President, and call a short Administration Committee meeting during recess?

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: There is no motion for recess. Mr. McLaughlin.

MCLAUGHLIN: Is there a question of recess?

PRESIDENT EGAN: Well, Mr. Cooper didn't move.

MCLAUGHLIN: Mr. President, I move the previous question.

PRESIDENT EGAN: Mr. McLaughlin moves the previous question.

BUCKALEW: Second.

PRESIDENT EGAN: Seconded by Mr. Buckalew. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the previous question has been ordered. The question is, "Shall Section 25 of Article XIV, Schedule, be adopted as a part of the Alaska State Constitution?" No, that is not the question -- the Chair stands corrected. "Shall Section 25 of Article XIV, the schedule, be agreed upon as part of the schedule appended to the Alaska State Constitution?" The Chief Clerk will call the roll.

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

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Riley, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 5 - Collins, Cooper, Laws, Reader, Rosswog.

Absent: 3 - Coghill, Peratrovich, R. Rivers.)

CHIEF CLERK: 47 yeas, 5 nays and 3 absent.

PRESIDENT EGAN: And so Section 25, the Alaska-Tennessee Plan, has been agreed upon as a part of the schedule appended to the Alaska State Constitution. Is it the wish of the Style and Drafting Committee or Rules Committee that we proceed with Article XIV, Sections 1 to 24 of the Schedule of Ordinances, at this time?

SUNDBORG: Mr. President, we are prepared to go ahead.

PRESIDENT EGAN: Then we have before us Article XIV, the Schedule, Sections 1 through 24. The Chief Clerk may read the report of the Committee on Style and Drafting. The Convention will come to order.

CHIEF CLERK: "Article XIV. Schedule. To provide an orderly transition from a territorial to a state form of government, it is declared and ordained:

Section 1. This constitution shall take effect immediately upon the admission of Alaska into the Union as a State.

Section 2. The capital of the State of Alaska shall be at Juneau.

Section 3. All laws in force in the Territory of Alaska on the effective date of this constitution and consistent therewith shall continue in force until they expire by their own limitation, are amended or repealed.

Section 4. Except as otherwise provided in this constitution, all rights, titles, actions, suits, contracts, liabilities and civil, criminal or administrative proceedings shall continue unaffected by the change from territorial to state government, and the state shall be the legal successor to the Territory in these matters.

Section 5. Cities, school districts, health districts. public utility districts and other local subdivisions of government existing on the effective date of this constitution shall continue to exercise their powers and functions under existing law pending enactment of laws to carry out the provisions of this constitution. New local subdivisions of government shall be created only in accordance with this constitution.

Section 6. All officers of the Territory, or under its laws, on the effective date of this constitution shall continue to perform the duties of their offices in a manner consistent with this constitution until they are superseded by officers of the State.

Section 7. Residence or other qualifications prescribed by this constitution shall be satisfied by corresponding qualifications under the Territory.

Section 8. The seal of the Territory, substituting the word "State" for "Territory", shall be the seal of the State.

Section 9. The flag of the Territory shall be the flag of the State.

Section 10. This constitution shall be submitted to the voters of Alaska for ratification or rejection at the territorial primary election to be held on April 24, 1956. The election shall be conducted according to existing laws regulating primary elections so far as applicable.

Section 11. Each elector 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 Constitution for the State of Alaska prepared and agreed upon by the Alaska Constitutional Convention be adopted?'	_____
	Yes

	No

Section 12. The returns of this election shall be made to the governor of the Territory of Alaska, and shall be canvassed in substantially the same manner provided by law for territorial elections.

Section 13. If a majority of the votes cast on the proposition favor the constitution, then the constitution shall be deemed to be ratified by the people of Alaska. The governor of the Territory shall forthwith submit a certified copy of the constitution through the President of the United States to the Congress for approval, together with a statement of the votes cast thereon.

Section 14. When the people of the Territory ratify this

constitution and it is approved by the duly constituted authority of the United States, the governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue a proclamation and take necessary measures to hold primary and general elections for all state elective offices provided for by this constitution.

Section 15. The primary election shall take place not less than forty nor more than ninety days after the proclamation by the governor of the Territory. The general election shall take place not less than ninety days after the primary election. The elections shall be governed by this constitution and by applicable territorial laws.

Section 16. The officers to be elected at the first general election shall include two senators and one representative to serve in the Congress of the United States, unless senators and a representative have been previously elected and seated. One senator shall be elected for the long term and one senator for the short term, each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States. The term of the representative shall expire on the third day of January in the odd-numbered year immediately following his assuming office. If the first representative is elected in an even-numbered year to take office in that year, a representative shall be elected at the same time to fill the full term commencing on the third day of January of the following year, and the same person may be elected for both terms.

Section 17. The first governor and secretary of state shall hold office for a term beginning with the day on which they qualify and ending at noon on the first Monday in December of the even-numbered year following the next presidential election. This term shall count as a full term for purposes of determining eligibility for reelection only if it is four years or more in duration.

Section 18. The returns of the first general election shall be made, canvassed and certified in the manner prescribed by law. The governor of the Territory shall certify the results to the President of the United States.

Section 19. When the President of the United States issues a proclamation announcing the results of the election, and the State has been admitted into the Union, the officers elected and qualified shall assume office.

Section 20. The governor shall call a special session of the first state legislature within thirty days after the presidential proclamation unless a regular session of the legislature falls within that period. The special session shall not be limited as to duration.

Section 21. The first members of the judicial council shall, notwithstanding Section 8 of Article IV, be appointed for terms as follows: three attorney members for one, three and five years respectively, and three non-attorney members for two, four and six years respectively. The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the supreme court, including the office of chief justice. Once the chief justice is appointed, he shall assume his seat on the judicial council.

Section 22. Until the courts provided for in Article IV are organized, the courts, their jurisdiction and the judicial system shall remain as constituted on the date of admission unless otherwise provided by law. When the state courts are organized, new actions shall be commenced and filed therein, and all causes, other than those under the jurisdiction of the United States, pending in the courts existing on the date of admission shall be transferred to the proper state court as though commenced, filed or lodged in those courts in the first instance, subject to applicable acts of congress.

Section 23. The provisions of Section 5 of Article II shall not prohibit any member of the first state legislature from holding any office or position created during his first term.

Section 24. Citizens who legally voted in the general election of November 4, 1924, and who meet the residence requirements for voting, shall be entitled to vote notwithstanding the provisions of Section 1 of Article V."

V. RIVERS: We have adopted a rule that ordinances shall be headed with that particular type of enacting clause, and the point of order is that it is automatically adopted.

PRESIDENT EGAN: Your point of order would be well taken, Mr. Victor Rivers, inasmuch as we adopted a rule by unanimous consent this morning when it was discussed. Mr. Robertson, do you recall if it was adopted? That question came up.

ROBERTSON: I would like to know what Mr. Riley's position is on that.

PRESIDENT EGAN: Mr. Riley, was it your recollection that we adopted such a rule?

RILEY: The Rules Committee wasn't instructed to act but it did act during the first recess, I believe, this morning, anticipating the question would be referred to it. Then when ordinances came in, Mr. McNealy proposed language very similar to that which the Rules Committee had arrived at, as an amendment to the rules covering this particular feature, and I believe

it was adopted on the floor by unanimous consent.

PRESIDENT EGAN: The question was adopted without objection, so is there still objection to it? If there is no objection and inasmuch as it is a rule, it would take a two-thirds vote to do away with the rule. Hearing no objection the change is ordered. Mr. Barr.

BARR: Mr. President, I would like to ask either Mrs. Hermann or Mr. Sundborg about a little punctuation on line 13, page 1. It just seems to me that there should be a couple of more commas in there to make it more interesting. For instance, after the word "liabilities" and after "criminal" would that be better? It would be for me.

PRESIDENT EGAN: With the word "or" following "criminal" would it be necessary?

BARR: After "liabilities" and after "criminal" there should be commas, I believe.

SUNDBORG: I might just say that the Style and Drafting Committee is breaking up now that we have gone through all the material before us, into three subcommittees. One will be a subcommittee on punctuation; one will be a subcommittee on arrangement; and one will be a subcommittee on uniform use of language throughout the constitution; and we will be going over every article, looking at them from a uniform point of view, and there may be some changes in punctuation for which we will ask unanimous consent before the constitution is adopted as a whole. Now as to the particular question Mr. Barr asks, I am not prepared to answer it. Maybe Mrs. Hermann is.

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

HURLEY: Mr. President, I am prepared to answer it and the answer as far as I am concerned is "no". There are two things we are talking about in here; one is rights, titles, actions, suits, contracts, liabilities and civil and criminal liabilities; and the other is civil, criminal or administrative proceedings, and that is why the "and" separates the two types of things. Now perhaps the punctuation isn't proper but it wouldn't be improved by putting a comma after the word "criminal".

BARR: Mr. Hurley, that is what I am objecting to. It is not separated, those two ideas there. Unless there is something put after "liabilities", I would prefer a semicolon.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I can give Mr. Barr the rule of punctuation that is followed on these. There are two sets of two series there.

The first one consists of the words up to "liabilities" and the second consists of the words up to "administrative". Now the rule of punctuation is to have a comma except between the first and last; the next to last and the last of the series that is connected. Because of the fact that we have omitted an "and" and put commas in all the way through here, and any time you omit a word you replace it with a comma. Now I don't know if this is very clear to him or not, or to anybody else, but the series is what we are working on. Now we come here to "liabilities and"; then we have "civil, criminal or administrative proceedings". Whenever the conjunction is added we do not put a comma in, also. That is the rule we have adopted and it is a sound rule of punctuation.

PRESIDENT EGAN: Are there other questions? Mr. Gray.

GRAY: Mr. President, it might be just my own

HELLENTHAL: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal?

HELLENTHAL: Didn't we kind of get off before the report was completed here? I think the Committee was in the process of making an amendment.

PRESIDENT EGAN: Mr. Sundborg, were you still reporting?

SUNDBORG: Mr. President, I take it the addition on the mimeographed copies of the words "schedule appended to" in the resolving clause was agreed to?

PRESIDENT EGAN: That is correct.

SUNDBORG: I will say for the Style and Drafting Committee that these sections were redrafted by a subcommittee consisting of Mrs. Nordale, Mr. McLaughlin and Mr. Johnson, and that we have asked Mr. McLaughlin to explain what changes have been made and to answer any questions from delegates.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, insofar as I can recall, there weren't any substantive changes made by the Committee on it. If the Chair desires to ask section by section, if there are any questions, I shall attempt to answer them.

PRESIDENT EGAN: Are there questions? Mr. Gray.

GRAY: I would like to ask a question of Mr. McLaughlin. On page 2 on the section on local government, in the enrolled copy you start out "pending adoption of measures to carry out the provisions" and so on "of local government there shall

be instituted..." Now in our Style and Drafting copy, Section 5, you have two sentences there. The first is very apparent. Now beginning with line 12, "New local subdivisions of government shall be created only in accordance with this Constitution." Now if this is an ordinance, would that have any effect until after the constitution was adopted?

MCLAUGHLIN: This would have no effect until after the constitution is adopted.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have a question in connection with page 6, Section 20. Now it says there, "The Governor shall call a special session of the first state legislature unless it is already in session." How could the legislature be in session if it is the first one? In the first place, this clause could apply to a state that was already a state in adopting amendments to a constitution where a state legislature might be in session. But under the system we have set up the first state legislature will be elected and if the Territorial legislature were already in session, the first state legislature would undoubtedly have a different composition, so I wonder if that is substance matter, Mr. McLaughlin, or whether it was the arrangement worked out this way in Style and Drafting Committee?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I am rather hazy as to what took place last night, Mr. Rivers, but my recollection was that the discussion was that unless a regular session of the legislature falls within that period, it was the intent of the governor --

V. RIVERS: We have got no state so there couldn't be a state legislature in session and there would be a new legislature if it is a state, so what would it matter? He would still have to call the first session period, wouldn't he, Mr. McLaughlin?

MCLAUGHLIN: This refers to the governor of the state, Mr. Rivers.

V. RIVERS: Yes, I see that.

MCLAUGHLIN: He "shall call a special session of the first state legislature" only unless a regular session of the legislature falls within that period; that is 30 days after the Presidential proclamation declaring Alaska as a state and its officers have been elected, then the governor shall call it.

V. RIVERS: I think that clarifies it; in other words, if he has called it previously while it is in session, or if it is a regular session under the constitution --

MCLAUGHLIN: Another matter on that, incidentally, that the Committee considered was the following sentence: "A special session shall not be limited as to duration." My recollection is that special sessions or the recollection of the Committee was that a special session would have to be limited in the call, that is, as to the subject matter; but we didn't attempt to change it and in substance, as it stands now, the governor can call it and limit the subjects which are to be discussed by it.

V. RIVERS: That answers my question, Mr. President.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I wonder if I may direct a question to Mr. McLaughlin? My question is with reference to Section 21 and I believe I shall direct it to you as Chairman of the Judiciary Committee rather than Style and Drafting because I believe it involves what I believe is a substantive change necessary in Section 21. On lines 13, 14, and 15, etc., do you recall in the discussion of the Judiciary Committee whether or not it was the belief of the Committee that the first court system should be set up before the chief justice of the supreme court was appointed and seated?

MCLAUGHLIN: My recollection of that is so, and in fact Mr. White has asked me several times whether or not we were prepared to propose an amendment making sure that the superior court, the vacancies then existing, should be filled. The first vacancy should be filled and vacancies on the supreme court filled before the chief justice is authorized to cast a vote, that is, participate in the proceedings of the judicial council. That is my recollection and, if you propose it, as I know you are, as an individual, it will be a substantive change.

JOHNSON: Well, I am prepared to propose such an amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, the transitional measures with regard to the election of the state senators and representatives, Mr. McLaughlin, my mind is hazy on those. Are they somewhere else in the constitution?

MCLAUGHLIN: Those, Mr. Hellenthal, were knocked out because they appear in the article on apportionment.

HELLENTHAL: Will they later be inserted in these transitional measures?

MCLAUGHLIN: They will be, Mr. Hellenthal.

HELLENTHAL: That will come before us again as a supplement?

MCLAUGHLIN: That won't be necessary, will it, Mr. Sundborg, because of the fact it has been adopted?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, our rules provide that after all of the articles, schedules, etc., have been adopted separately, that they are referred to the Style and Drafting Committee who shall arrange them according to an order which it suggests to the Convention and then all of that material, that is, the finished constitution as we suggest it as to order will be brought back before the Convention and the Convention will pass upon our suggestions as to the arrangement before adopting the constitution as a whole.

HELLENTHAL: That answers my question. One more I notice on the last page -- it's extremely minor but style has been departed from there in referring to the applicable "acts of congress" and the "A" in "Acts should be capitalized and the word Congress" should begin with a capital "C", I should think.

V. RIVERS: I have one further question, Mr. President, and I would direct it through the Chair, and that is in the first two lines, "To provide an orderly transition from a territorial to a state form of government, it is declared and ordained..." I notice that is somewhat different from some of the words that have been used in that similar clause in other state constitutions and I wonder if that follows now the wording that we originally acted upon, Mr. McLaughlin?

MCLAUGHLIN: No, the wording that we originally acted upon, Mr. Rivers, the original preamble if you want to call it that, read "that no inconvenience may result because of change from a territorial to a state form of government, it is declared and ordained..." We substituted "To provide an orderly transition from a territorial to a state form of government..." It was not the belief of the Committee that that was a substantive change and it was concurred in by the Committee on Ordinances and Transitional Measures through its Chairman, Mr. McNealy.

V. RIVERS: I notice there is considerable change and I cite from Oklahoma in that matter. "In order that no inconvenience may arise by reason of a change from the forms of government now existing in Indian territory and in the Territory of Oklahoma, it is hereby declared as follows." I am wondering as to the interpretation of this wording here now. You feel that the Ordinance Committee has said there was no substantive change -- is that correct?

MCLAUGHLIN: That is my understanding: if Mr. McNealy desires. to contradict me. We kept it in, incidentally, in the preamble because Mr. McNealy said it was essential under the decisions of many courts; it would be helpful to have it in there, that

is, the preamble itself. Mr. McNealy might be able to answer whether or not the Committee completely concurs.

V. RIVERS: I would like to ask Mr. McNealy what his opinion is in relation to the present preamble in regards to the one originally brought in by his Committee.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Rather early in the proceedings here, the Ordinance Committee thought we would have that matter come up before Style and Drafting and they didn't want to use the double negative, but we, however, probably would have preferred to keep the old language in but in checking up on it, I liked the words "that no inconvenience" and it was the same wording as other constitutions, as used by other courts, but in the checking up we did we found no indication but that the words "to provide for an orderly transition" were substantially the same as the use of the word "inconvenience".

V. RIVERS: And there have been legal interpretations of the other wording, is that correct?

MCNEALY: The other wording as occurred originally, of course, has been determined many, many times by the courts. The purpose behind it though, if the President will permit, that so no inconvenience may result, it conveyed, in effect, the words that it would provide then for orderly transition. I don't believe necessarily that this present wording would be subject to any other interpretation.

V. RIVERS: You think the words "orderly transition" essentially mean the same as "no inconvenience"?

MCNEALY: That was the opinion of the Ordinance Committee.

V. RIVERS: Do you think the words "declared and ordained" mean the same thing as "declared"?

MCLAUGHLIN: If I may interrupt, "declared and ordained" is identical. We are using the identical language from the enrolled copy.

V. RIVERS: I wanted the record to show his answer on that "declared and ordained", Mr. McLaughlin.

MCNEALY: Mr. President, we felt that it was necessary to include the words "declared and ordained" because those have been specifically passed upon.

V. RIVERS: They have been interpreted?

MCNEALY: Which, in effect, makes all of the provisions of the

schedule as ordinances. The words "transitional measures" have been used in some of the court decisions but only in referring to ordinances and in this manner, just in a byline, they might mention an ordinance as a transitional measure, and we felt we were much safer to keep the thought of ordinances in the foreground, and transitional measures as sort of a secondary interpretation.

V. RIVERS: It is true, is it, that transitional measures, ordinances, and schedules have all been interpreted to mean the same thing legally?

MCNEALY: That is substantially true. The use of the words "transitional measures" is one interpretation of an ordinance, but it is not so all-inclusive as the word "ordinance".

V. RIVERS: "Schedule" -- what about that?

MCNEALY: The words "schedules and ordinances" have been, Mr. President, connected together in a majority of the court decisions on matters arising under the schedules of constitutions. Its a very fixed meaning in the decisions of the court.

V. RIVERS: That answers my question for the moment.

PRESIDENT EGAN: Are there other questions to be directed to the Committee in relation to Sections 1 through 24? Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, for the information of the Convention, Section 23 and Section 24 -- in the copies before you, Section 23 is taken from Section 26 which was Proposal 17/c, of the second revision, and Section 24 was taken from Section 27, which was the proposal in 17/c, second revision.

PRESIDENT EGAN: Are there questions to be directed to Mr. McLaughlin? If not, does the Committee have any proposed amendments? Mr. Sundborg.

SUNDBORG: Mr. President, we will have an amendment to, I believe, Section 11, and I believe we are pretty well agreed on what it will be, but if we could have a five-minute recess so that Style and Drafting Committee could meet, I believe we could present that to you.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. It is the feeling of the Chair, if it is agreeable to the delegates, that we might proceed with this ordinance and complete it.

SUNDBORG: And then adjourn for the day?

PRESIDENT EGAN: And then adjourn for the day if that would be the wish of the body. Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee has agreed on some language it wants to submit in the form of an amendment to Section 11. It contains several sentences and we have sent it upstairs to be mimeographed. We would be perfectly willing to submit that, since it is a matter of substance, after our report as a whole has been accepted, and along with any other amendments as to substance, so we would like now to know if there are any other suggested amendments or questions as to phraseology, and then I will move the acceptance of our report and get on to amendments as to substance.

PRESIDENT EGAN: Are there any other questions or proposed amendments as to phraseology to be offered? Mr. Londborg?

LONDBORG: Did Style and Drafting Committee work on that one sentence that Mr. Barr mentioned? I surely can't make it out.

SUNDBORG: We will.

PRESIDENT EGAN: Are there other questions? If not -- Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that the report of the Style and Drafting Committee as to the first 24 sections of Article XIV, Schedule, be accepted and that the amendments therein be adopted.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the report of the Style and Drafting Committee as to the first 24 sections of Article XIV, Schedule, be accepted and that the amendments therein be adopted. Is there objection? Mr. Victor Rivers.

V. RIVERS: I rise for a momentary objection and I, the other day, under the resolutions tried to submit an amendment for an additional section. At that time I was told that it should be placed in ordinances, as you recall. I still have that amendment; I submitted it to the Ordinance Committee and I haven't heard any further report on it. It's a separability clause which I mentioned previously.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I hadn't risen because Mr. Sundborg asked only as to style and drafting matters. Just a few minutes ago an amendment proposing eight lines of substance and also Mr. Rivers' amendment was presented to the Committee and I think on both of those it is going to -
- the one came up just the last

few minutes, and I think the Committee should pass on it.

V. RIVERS: If this is not the right time, I will withhold my request then, but when I submitted this I understood the article I submitted it on was in second reading. Was that correct?

PRESIDENT EGAN: What was the situation?

V. RIVERS: I will withhold that question and we can look it up.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent for acceptance and adoption? If not, the first 24 sections of the report of the Style and Drafting Committee is ordered accepted and the amendments contained therein are ordered adopted. Mr. Johnson.

JOHNSON: Mr. President, if it is in order, I have an amendment as to substance regarding Section 21. I move that the rules be suspended for the purpose of submitting a specific amendment.

PRESIDENT EGAN: Would you state the amendment, Mr. Johnson.

JOHNSON: The Chief Clerk has it.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment that would be offered.

CHIEF CLERK: "Section 21, page 7, line 13, after the first 'the', add 'superior court and the'; line 14, strike the word 'once' and insert the following: 'After the initial vacancies on the superior and supreme court are filled'; line 15, strike the comma and insert the word 'and'."

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the rules be suspended in order that he might offer this amendment. Is there objection to the suspension of the rules? The Chief Clerk will please read the proposed amendment before the rules are suspended.

(The Chief Clerk read the proposed amendment by Mr. Johnson again.)

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Is there objection?

DAVIS: I haven't got all of that down, would you mind repeating it.

(The Chief Clerk then read the amendment again.)

PRESIDENT EGAN: Would the Chief Clerk please read, beginning

at the comma on line 11, how that would read then.

CHIEF CLERK: "The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the superior court and the supreme court including the office of chief justice. After the initial vacancies on the superior court and supreme court are filled, the chief justice is appointed and he shall assume his seat on the judicial council.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I ask a question of Mr. Johnson?

PRESIDENT EGAN: You may, Mr. Rivers.

V. RIVERS: Mr. Johnson, does this improve the matter and to your way of thinking remove a situation that might otherwise be difficult?

JOHNSON: Yes, Mr. Rivers, it does.

PRESIDENT EGAN: Mr. Johnson, the Chair does not mean to interrupt, but is there objection to the suspension of the rules? Hearing no objection, the rules are ordered suspended. Mr. Johnson.

JOHNSON: I now move that the amendment be adopted as read.

PRESIDENT EGAN: Mr. Johnson moves the amendment be adopted as read.

ROBERTSON: I second it.

PRESIDENT EGAN: Seconded by Mr. Robertson. Is there objection to it?

DAVIS: I would like to have Mr. Johnson explain what he has in mind here and why he thinks this is desirable.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Well, during discussions of this matter in the Judiciary Committee, the question came up on a number of occasions as to whether or not, in setting up the first court, the superior and the supreme court, with the chief justice a member of the judicial council and voting on the appointments or the nominations of members on the superior and supreme courts. that he might, if he were appointed first and sat in his capacity as a member of the judicial council and did vote on nominations presented, that it might create a situation where some of the judges of the superior court and justices of the supreme court might be obligated to him in some way; and in order to obviate

any chance of that situation arising, we felt, I have felt all along, that something like this should be inserted in this transitory provision in order that all of the vacancies on the superior court shall be filled by the first six members appointed to the judicial council, and also the two vacancies on the supreme court other than the chief justice could be filled, and then the appointment of the chief justice made and he then take his seat on the judicial council. In that way, the entire initial court system would be set up without the chief justice having participated in any way either in the appointments or the selection of the members of the bench, freeing the chief justice and the members themselves of any possible political or other obligations.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: If I may ask Mr. Johnson a question. Doesn't this make it twice as likely that the six-man board will become deadlocked?

JOHNSON: I don't believe so.

HELLENTHAL: You don't think the three attorney members will square off against the three nonattorney members?

JOHNSON: No, I do not.

HELLENTHAL: Like the ESC?

JOHNSON: No, I really don't. I don't think that is a problem at all. Does that answer your question?

HELLENTHAL: That will, yes.

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

WHITE: Mr. President, may I address a question to Mr. Johnson?

PRESIDENT EGAN: You may. Mr. White.

WHITE: As you know, Mr. Johnson, I have been very much interested in some correction here, too, all along. The only problem I see with your amendment is one that was pointed out to me by Mr. McLaughlin, I think, sometime ago, and that is with two or more nominations for the chief justice having to go to the governor eventually, it means that the judicial council will have to save out from selection on the initial court system at least two names, and presumably they should be the two best names available, and with all the other positions filled first, it means that one of those two best candidates will not be eligible to fill any initial vacancy in the entire court system. Do you think that your amendment to correct the problem that might arise transcends the difficulty that I pointed out here?

JOHNSON: I believe that is a matter of a practical application of the system and if the judicial council goes ahead and attempts to fill these vacancies, certainly they are going to screen the entire Bar Association in Alaska and right now I understand we have about 125 or 150 members, so I see no real objection to the amendment on that basis, because I am quite sure the first judicial council will do everything they can to get the best men and will save back two of the best for the chief justice position.

MCLAUGHLIN: May I request a half-minute 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. Mr. Johnson.

JOHNSON: Mr. President, I have a parliamentary inquiry. Under this suspension of the rules, will it be permissible to offer a slight amendment to the amendment or must I --

PRESIDENT EGAN: Under the manner in which we have been proceeding, Mr. Johnson, no. But by unanimous consent, of course, which would be a further suspension of the rules, if there is no objection, it would be possible because it would be a further suspension of the rules for that purpose, to offer an amendment. If there would be no objection to offering a further amendment, by unanimous consent, we could allow you to do so.

JOHNSON: Then, Mr. President, I ask unanimous consent to suspend the rules for the purpose of offering an amendment to the amendment that is now before us.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules? Would you state what the proposed amendment would be to the amendment, Mr. Johnson.

JOHNSON: Mr. President, the present amendment which is on the Chief Clerk's desk says, "line 15, strike the comma and insert the word 'and'". In lieu of that, in line 15, I would ask to change the original amendment by striking the words "is appointed, he", so that the sentence then would read beginning on line 14 : "After the initial vacancies in the superior and supreme courts are filled the chief justice shall assume his seat on the judicial council."

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules in order that Mr. Johnson may offer the amendment to the amendment? Hearing no objection, the rules have been suspended for that purpose.

JOHNSON: I move that the original amendment now be amended so that in line 15 the words "is appointed, he" are stricken from line 15.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent for adoption of the proposed amendment to the amendment. Is there objection? Hearing no objection, the amendment to the amendment is ordered adopted. Mr. Johnson.

JOHNSON: Now I ask that the amendment as amended be adopted.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the amendment as amended be adopted. Mr. Londborg.

LONDBORG: Mr. President, I would appreciate having it read in its entirety as it now reads.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence again, please.

CHIEF CLERK: Starting on line 9, "The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the superior and the supreme court, including the office of chief justice. After the initial vacancies on the superior and supreme court are filled the chief justice shall assume his seat on the judicial council."

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of the amendment as amended?

KILCHER: A question, Mr. President. Mr. Johnson, shouldn't you possibly have said in the beginning of your amendment "the initial vacancies on the superior courts and supreme court"? Both courts are in the singular there. Is that correct in accordance with our judicial article?

JOHNSON: Well, I thought that later the Style and Drafting Committee could correct the variance between the original article and this.

PRESIDENT EGAN: Is there objection to the adoption of the amendment as amended? Mr. Sundborg.

SUNDBORG: I would like to hear from Mr. McLaughlin as to what he thinks about it as to the standpoint of the Judiciary Committee.

MCLAUGHLIN: I think we discussed this in the Judiciary Committee and we added various interpretations on the floor. I personally believe that it is a good amendment because it prevents this situation from arising. As it stood, if the judicial council is formed and they submit names to the governor

for all the superior court judges and all the supreme court judges, the first thing a wise governor might do would be to designate the chief justice immediately. Then he would have a weighted council where he had two appointees plus a chief justice who had been appointed by him and he could repudiate all other nominations and then he would have control of the judicial council. The net effect of it would be that most of the appointments on the superior and the supreme court bench would be determined by the chief justice designated by the governor, and the only way you could possibly avoid it would be to designate all your superior court judges first and then designate your supreme court judges, but there is a possibility that you would have exhausted all your good men. Your best man whom you desired as chief justice might be repudiated at the last by the governor. So, under those circumstances, we feel that this is the adequate solution for those first appointments; that is, there would be little likelihood of a complete control by the chief justice, or indirectly, by the governor. I believe it is a good amendment.

PRESIDENT EGAN: Mr. McLaughlin.

SUNDBORG: May I direct a question to Mr. McLaughlin? Mr. McLaughlin, as I read it, as it would be after being amended, the eventuality that Mr. White assumed here, or suggested, would not arise? Do you agree with me?

MCLAUGHLIN: No, it would not, and I believe that Mr. White is quite happy now about the amendment.

PRESIDENT EGAN: Is there objection to the adoption of the amendment, as amended? Hearing no objection, it is so ordered and the amendment as amended has been adopted. At this time the Chair does not recollect having referred the Committee Proposal No. 17/a as it was reported out of the Committee on Engrossment and Enrollment to the Style and Drafting Committee. That Proposal No. 17/a is referred to the Style and Drafting Committee. Are there other amendments for this proposal? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting has a substantive amendment. I ask unanimous consent that the rules be suspended to permit the Committee on Style and Drafting to offer an amendment, the text of which has been placed on the desk of each delegate. It's an amendment to Section 11.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended in order that this proposed amendment might be offered. The Chair might state at this time, too, that perhaps it would not be in order to leave here without eating. Undoubtedly the people upstairs have prepared lunch for the delegates and it would not be a very good move to leave without having eaten. Mr. Sundborg.

SUNDBORG: Mr. President, was unanimous consent given to suspend the rules?

PRESIDENT EGAN: Is there objection to the suspension of the rules? Hearing no objection the rules are ordered suspended. Mr. Sundborg.

SUNDBORG: Mr. President, I now offer the amendment. The Chief Clerk has a copy.

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

CHIEF CLERK: "Section 11, page 3, line 14, strike 'in substance' and all of line 15, and insert: 'will be separate from the ballot on which candidates in the primary election are listed. Each of the propositions offered by the Alaska Constitutional Convention shall be set forth separately, but on the same ballot form. The first proposition shall be as follows: '"

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

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

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment and asks unanimous consent. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Johnson.

JOHNSON: I move the Convention stand at recess until 1:30 p.m.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 1:30. Is there objection? Mr. Sundborg.

SUNDBORG: I object.

BARR: I second.

PRESIDENT EGAN: Seconded by Mr. Barr that the Convention stand at recess until 1:30. Are there Committee announcements to be made if we do recess? Mr. McNealy.

MCNEALY: In the event of recess the Ordinance Committee will meet immediately upon recess.

PRESIDENT EGAN: In the event of recess the Ordinance Committee will meet immediately upon recess. Mr. Sundborg.

SUNDBORG: Mr. President, Style and Drafting Committee has nothing further for the Committee to work on. It might be there is some other work that some of the other committees want to do at 1:30. It was my thought that we would adjourn now until tomorrow.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess until 1:30? All those in favor of recessing until 1:30 will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the Convention is still in session. Are there other proposed amendments for this proposal, Article XIV? Mr. Sundborg.

SUNDBORG: If there are no other amendments, I ask unanimous consent that the rules be suspended and that the first 24 sections of Article XIV, Schedule, 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 rules be suspended as to the first 24 sections of Article XIV, the schedule, that those sections be advanced to third reading, read the third time by title only, and placed on final passage. Is there objection? Hearing no objection, the rules have been suspended and the first 24 sections of Article XIV, the schedule, are now before us in third reading. The Chief Clerk will please read the title.

CHIEF CLERK: "Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution. Article XIV, Schedule, Sections 1 through 24."

PRESIDENT EGAN: Is there any discussion? The Convention will come to order. Is there any discussion with relation to these 24 sections? Mr. Victor Rivers.

V. RIVERS: Mr. President, I believe it is the opinion of all of the members here that in adopting these ordinances and transitory provisions under the title "Schedule" that they are all subject to being self-executed and finishing themselves off in that manner, or subject to change by law, meaning either the legislature or the initiative. Is that correct in your opinion?

PRESIDENT EGAN: That would be the opinion of the Chair with relation to the interpretations given on the floor, yes, Mr. Victor Rivers. Is there further discussion? Mr. Johnson.

JOHNSON: I do not believe the Chair correctly stated the question. You used the phraseology appearing above which has been corrected by new rules, has it not?

PRESIDENT EGAN: Yes, Mr. Johnson, you mean in advancing this article?

JOHNSON: Yes, you stated that the question before us, as I understood you, was: "Resolved, that the following be agreed upon as a part of the Alaska State Constitution."

PRESIDENT EGAN: I hadn't stated that yet, Mr. Johnson. We

haven't put the question because it is still open for discussion if any delegate wishes to discuss the article.

JOHNSON: I beg your pardon.

PRESIDENT EGAN: Is there any discussion? Mr. Sundborg.

SUNDBORG: If I may comment on the question addressed to the Chair a few moments ago by Mr. Rivers, he asked you, as I recall it, sort of a double-barreled question. First of all, are these provisions self-executing, and then, are they subject to being changed by the legislature? I think you answered that it was your understanding that it was "yes" on both counts.

PRESIDENT EGAN: They are self-executing. It is the opinion of the Chair that they are self-executing, Mr. Sundborg, and they are subject to change by the legislature wherever any provision by law is made in a section.

SUNDBORG: In the section itself?

PRESIDENT EGAN: Yes. It would be the opinion of the Chair in answering that, that they are not bound by the constitutional provisions forever as the provisions in the constitution are. That was the intent of the Chair in answering the question. Mr. Riley.

RILEY: Mr. President, as I recall it the question was to this effect: Did not the body feel this situation as described by Mr. Rivers to exist, and I think it should be pointed out that the Chair in replying said, "in the opinion of the Chair", and that is as far as it has gone.

PRESIDENT EGAN: The question is, "Shall the first 24 sections of Article XIV, the schedule, be agreed upon as part of the schedule appended to the Alaska State Constitution?" The Chief Clerk will call the roll.

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

Yeas: 51 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fisher, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 2 - Laws, Robertson.

Absent: 2 - Peratrovich, R. Rivers.)

CHIEF CLERK: 51 yeas, 2 nays and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the first 24 sections of Article XIV have been agreed upon as part of the schedule appended to the Alaska State Constitution.

JOHNSON: What was the result again?

PRESIDENT EGAN: 51 yeas, 2 nays and 2 absent. At this time the Chair would like to remind the delegates that we have accepted an invitation of the History Class of the University to have our coffee with them tomorrow afternoon at 3:30. Mr. Sundborg.

SUNDBORG: Mr. President, I now move we adjourn, subject to committee announcements, until 1:30 o'clock tomorrow afternoon.

PRESIDENT EGAN: Mr. Sundborg moves that the Convention stand adjourned, subject to committee announcements, until 1:30 o'clock tomorrow afternoon. Mr. Hilscher.

HILSCHER: On the dollar apiece that we collected the other day for the "cokes" and that stuff, we will declare a dividend of \$15.80 and that probably will be at the Oasis of the Traveler's Inn on Saturday night, should there be an entertainment or a general clambake there.

HERMANN: I move we apply it to our senators' salaries. (Laughter)

DAVIS: Mr. President, this is not a committee announcement but I would like to know what this paper is that is going around here.

UNIDENTIFIED DELEGATE: The paper is for delegates' signatures to be used on souvenir tablecloths.

PRESIDENT EGAN: The Convention will come to order. The Chair would like to ask: Do you write "tablecloth" every time you sign your signature under it? (Laughter) Mr. Coghill.

COGHILL: Committee on Administration will meet at 5:00 o'clock in Apartment 1012 of the Polaris Building, this evening.

PRESIDENT EGAN: Committee on Administration at 5:00 o'clock this evening in Apartment 1012 of the Polaris Building. Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances will meet in the gallery immediately upon adjournment.

PRESIDENT EGAN: Committee on Ordinances will meet in the gallery immediately upon adjournment. Mr. Sundborg.

SUNDBORG: Mr. President, Committee on Style and Drafting will meet in one of the large committee rooms upstairs at 1:30 o'clock.

PRESIDENT EGAN: Style and Drafting Committee in one of the large committee rooms upstairs at 1:30 o'clock. Mr. Coghill.

COGHILL: For the information of the delegates, there are more invitations on hand upstairs in the message center room and if anyone has requested them, they can pick them up.

PRESIDENT EGAN: If there are no other committee announcements and if there is no objection, the Convention stands adjourned until 1:30 p.m. tomorrow.