

ALASKA CONSTITUTIONAL CONVENTION

January 18, 1956

FIFTY-SEVENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today the Reverend John O. Jeffcoet of the Native Baptist Church in Fairbanks. Reverend Jeffcoet will give our daily invocation.

REVEREND JEFFCOET: Our gracious Father, we pause now to recognize Thee as the sovereign Ruler of our universe and as the great Advocate of man's freedom and as one who has manifested Himself down through the years in a very lovely way in behalf of man. "And behold what manner of love Thou hast bestowed upon us that we should be called the sons of God." Our Father, we want to thank Thee for this present day and for every expression of Thy love and Thy beauty, and we pray, our Father, Thy blessings upon this Constitutional Assembly. We pray Thee that they may have strength of body and mind for the labors and duties that are before them this day. In Jesus' name we pray. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present and the Convention will proceed with the regular order of business. The Chair will declare a recess at this time. The group photograph will be taken and the Convention will convene immediately following the photographing of the delegates. The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: Mr. President, the Committee on the journal of the 50th day has the following corrections to report: page 10, fourth paragraph from the top of the page, strike the letter "s" from "Mrs."; page 13, sixth paragraph from the top of the page, delete "proposed" and insert "proper"; page 15, after the last roll call vote, eighth line from the bottom of the page, change "ans" to "and". With those corrections, Mr. President, I move that the report be adopted and ask unanimous consent.

PRESIDENT EGAN: Mr. Knight moves and asks unanimous consent that the journal of the 50th day be adopted by the Convention with the proposed corrections. Is there objection? Hearing no objection it is so ordered and the journal has been adopted. Are there any petitions, memorials or communications from outside the Convention? The Chief Clerk will please read the communications.

(The Chief Clerk read the following communications: a telegram from the Tlinget tribe No. 4, Ketchikan, urging provision for separate wildlife and commercial fishing commission; a telegram from Ketchikan Rod and Gun Club, recommending the proposal of the Alaska Sportsmen Council for the wildlife conservation section of the constitution of Alaska be used verbatim; telegram from J. F. Krause, President, Southeastern Seine Boat Owners Association, opposing fish and game setup in constitution and recommending that game department should be set up by the legislature on same setup as our fisheries department is set up.)

PRESIDENT EGAN: Are there other communications? Are there reports from standing committees? Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee wishes to report to the Convention three items which concern other committees and the Convention as a whole. First, we would like to suggest that the Rules Committee develop a procedure for scheduling the consideration on the floor of the reports from the Style and Drafting Committee which will include the revised language of proposals which have been referred to us. Specifically, we would like to suggest that the Rules Committee prepare a calendar for consideration of the reports from our Committee on the floor. The second item is a suggestion from the Style and Drafting Committee that the Rules Committee prepare an amendment to the rules which would separate articles which have come upon the floor and have been considered jointly with other articles in single proposals, as in the example of the article on preamble and bill of rights was considered along with the article on health, education and welfare; and I believe that was done in at least one other case. We believe it would speed up the work of the Convention and cut down on a lot of work in the boiler room if we could consider the articles separately rather than have to consider the proposals which might contain several articles at the same time. The third item is a report that we have referred directly to the Committee on the Judiciary and to the Committee on Initiative, Referendum and Revision, an apparent inconsistency in several of the articles where in some cases we speak of things being done "by the legislature" and others as being done "by law"; and we have asked those committees to resolve the inconsistencies and make some recommendations

to our Committee.

PRESIDENT EGAN: What is the pleasure of the Convention? The Rules Committee will take the suggestions under consideration. Are there other committee reports? Reports of standing committees? Or reports of select committees? Are there any motions or resolutions? If not, we have before us Committee Proposal No. 8/a in second reading. Mr. Smith.

SMITH: Mr. President, during the morning recess the Committee on Resources discussed with various delegates proposed amendments, and the Committee has adopted several committee amendments, and Mr. Riley, being the shorthand expert, will present those amendments.

PRESIDENT EGAN: Mr. Riley.

RILEY: The Chief Clerk will read the proposed amendments.

CHIEF CLERK: "Page 1, line 4, place a period after the word 'interest' and strike the rest of the paragraph."

RILEY: Mr. Chairman, I ask unanimous consent for the adoption. It was the feeling of the Committee after discussing the matter with others that the statement of purpose was left largely intact and some economy effected in words by that change.

PRESIDENT EGAN: Mr. Riley, is it your understanding now that we are in the amendment process, or are you asking that that become a part of the original Proposal 8/a?

RILEY: Actually, I thought we were in the amendment process.

PRESIDENT EGAN: Unanimous consent is asked that the proposed committee amendment be adopted. Is there objection?

LONDBORG: May we have it read again?

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

CHIEF CLERK: "Page 1, line 4, place a period after the word 'interest' and strike the rest of the paragraph."

PRESIDENT EGAN: Is there objection to the unanimous consent request? If there is no objection the proposed amendment is ordered adopted. Mr. Riley.

RILEY: Mr. President, is it the wish of the body that all of these come in chronologically from the Committee before we start the amendment process from the floor?

PRESIDENT EGAN: The Chair would feel that would probably be the best manner to handle that. The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Page 2, line 7, strike the comma after the word 'waters' and insert 'as defined by the Legislature,'."

HERMANN: What was that?

CHIEF CLERK: "Page 2, line 7, strike the comma after the word 'waters' and insert 'as defined by the Legislature,'."

RILEY: I would call attention to the comma following "legislature".

CHIEF CLERK: "Legislature comma".

DAVIS: To keep from running into the same problem, is there any objection to saying "as prescribed by law" at this point to keep from running into that same trouble?

RILEY: Subject to the views of Style and Drafting, I think the Committee will go along if "law" is preferable.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, "as defined by law" would include the initiative and that is the reason I understand that they used the word "legislature" there so that wouldn't be for Style and Drafting.

HELLENTHAL: That is correct. At the meeting it was decided to use "legislature" deliberately rather than "law".

RILEY: Mr. Hellenthal is right on that point. I thought Mr. Davis had raised this question in behalf of Style and Drafting, which Committee has been confronted by the problems constantly.

PRESIDENT EGAN: What is your pleasure then, Mr. Riley?

RILEY: The Committee adopted "legislature" for the reasons assigned by Mr. Rivers and Mr. Hellenthal.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Is there objection? Mr. Hurley.

HURLEY: Mr. President, I think maybe there is not a full understanding of this particular problem. While I will grant that a person has a perfect right to believe that this particular definition should not be prescribed by the initiative, still I call your attention to the fact that if, throughout this con-

stitution, we are confronted with "by the legislature" and "by law", we will be in conflict with our initiative provision unless we prescribe in our initiative provision that all these things cannot be done by the legislature. That is what concerns me. I think, practically speaking, it would be absurd for an initiative provision to define "waters" to begin with. Now I will grant the possibility that it could happen, but it being so unusual to have such a thing, it will be a much better constitution if we use "by law" recognizing that it could possibly be referred to initiative.

RILEY: The Committee, as Mr. Hellenthal pointed out and those who were present this morning, used the word deliberately just against that remote possibility. Now, sooner or later I am sure that the matter will probably be threshed out here at the instance of Style and Drafting, but in any event, we submit it as "defined by the legislature".

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

TAYLOR: I will object, because I would like to ask a question. Mr. Riley, does the amendment "as defined by the legislature" refer back to fish and wildlife, too?

RILEY: No, it does not. "Wildlife, and waters as defined by the legislature,".

PRESIDENT EGAN: If there is no objection, the proposed committee amendment is ordered adopted. Are there other committee amendments? Are there other committee amendments. Mr. Riley?

COGHILL: Mr. President, could I ask a question on this proposed amendment to Mr. Riley -- on the one we just finished?

PRESIDENT EGAN: You may ask a question if there is no objection.

COGHILL: On that, Mr. Riley, it would be the feeling of the Committee that the legislature could not regulate any of their wildlife to the point of say, domesticating moose or providing for such development of any source of wildlife that is held in their own natural state?

RILEY: No, that was not in the Committee's contemplation at all. We wished simply to meet the objection raised last evening by Mr. Poulsen, as you will recall. He and others, including the Committee, have been quite concerned about the problem as stated by him as concerns small bodies of water on privately owned property.

COGHILL: I understand that, Mr. Riley. Is there some other place in your article that would cover such a movement, say, to domesticate moose or to take a block of land and raise fox or something like that in his natural habitat?

RILEY: Are you speaking of refuge?

COGHILL: I am speaking, more or less, of a commercial refuge.

RILEY: Conducted by the state?

COGHILL: Conducted by a private person. I am afraid it would be against the constitution.

RILEY: It has not been discussed, as I recall, within Committee, precisely the situation you described.

COGHILL: I was thinking, more or less, along the lines that there has been in past years a movement to try and domesticate moose or to bring them under domestic control some way or other.

RILEY: Sort of like the reindeer program?

COGHILL: On that same order, but they would have to be ranged in their natural state, and would this clause then prohibit such a movement?

RILEY: The language here has a lot of history behind it. I see that I overlooked one -- no, I didn't either. The language in this section harks back to the old tradition whereby wildlife in its natural state was in the presumed ownership of the sovereign until reduced to possession. Frankly, I see problems arising in the situation which you suggest, and I don't know that this would prevent that if one could domesticate moose. They aren't in a natural state once domesticated.

COGHILL: I see your point, now.

RILEY: I would be pleased to discuss it with you in recess but I am somewhat nonplused at the moment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, may I ask the Committee -- it now says: "and waters as defined by the legislature" -- would that be a local or special act in most cases or in all cases?

RILEY: I would say one of general application is what we had in mind.

COOPER: Is there the chance it could be a local act? If so --

RILEY: It would generally be in conflict with the --

COOPER: With the legislative?

RILEY: Yes, you're right.

COOPER: And what I wanted to bring out was the fact that if as "defined by the legislature", to answer Mr. Poulsen's question last night, that is primarily the reason why this is in here?

RILEY: Yes. It is not his problem alone, mind you, but the problem of everywhere.

COOPER: Yes, but the legislative article says, "No local act will take effect until approved by a majority of the qualified voters voting thereon in the district to be affected." It would really be in conflict.

RILEY: No. The thought behind this language is for general application alone, the issuance of such definition either directly by the legislature or through its delegation by the administrative agencies.

PRESIDENT EGAN: Mr. Gray.

GRAY: I don't like to pursue any further, but in Section 4, I don't understand "waters, fish, wildlife, and waters" -- when over on Section 14, you practically repeat the same thing. You say, "All waters reserved to the people for common use shall be subject to appropriations." For just a cursory glance I do not see any reason why "waters" is mentioned in Section 4 at all.

RILEY: That is a statement of general reservation. In Section 14 we have some general coverage of waters. The general reservation touches on the other resources as well. Section 14 is confined to a statement on waters. As a matter of fact, we have another amendment coming up on Section 14.

PRESIDENT EGAN: Are there other committee amendments on the Chief Clerk's desk?

CHIEF CLERK: "Section 11 -- "

R. RIVERS: What is the ruling on Section 4?

RILEY: It was asked unanimous consent.

PRESIDENT EGAN: It was ordered adopted, Mr. Rivers.

CHIEF CLERK: "Section 11, page 4, line 3, strike 'mineral or water', and strike on lines 5 and 6, 'and to all other resources

reserved to the people', and retain the semicolon."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I ask unanimous consent for its adoption.

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

(The Chief Clerk read the amendment again.)

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

RILEY: I ask unanimous consent and will state we have stricken "mineral or water" on the one line and "all other resources" on lines 5 and 6 and used all-inclusive language for resources, generally, so it reads without a recital of various resources, "reservations to the state of all resources as are required by the Congress or the state," simply a cleanup of language.

PRESIDENT EGAN: Mr. Riley, do you ask unanimous consent for the adoption of the amendment?

RILEY: I did, yes.

PRESIDENT EGAN: Is there objection? Hearing no objection to the unanimous consent request the proposed committee amendment is ordered adopted. Mr. Riley.

RILEY: I believe there is one more.

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

CHIEF CLERK: "Section 11, page 4, line 7, strike 'beneficial'."

RILEY: Mr. President, I ask unanimous consent for its adoption. It leaves the word "use" intact. The provision now reads: "except the reservation of access shall not impair the owners' use"; we felt that was broader and certainly included the types of use.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed committee amendment. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Mr. Riley.

RILEY: Mr. President, I will ask consent of the body to put the next two or three amendments in orally. I have not been able to keep ahead here on the preparation of these. On the same page, page 4, lines 16 and 17, strike the words "during the year 1955" and in lieu of that, insert "upon the date of ratification of this Constitution by the people of Alaska".

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PRESIDENT EGAN: Mr. Riley asks that on page 4, lines 16 and 17, strike the words "during the year 1955" and insert the words "upon the date of ratification of this Constitution by the people of Alaska".

RILEY: "During the year 1955" -- that was put in last night.

DAVIS: May we have it again, please?

RILEY: Strike "during the year 1955" -- that was inserted last evening. We insert "upon the date of ratification of this Constitution by the people of Alaska".

PRESIDENT EGAN: Mr. Riley, the Chair wonders in that particular wording, and the wording has appeared in other articles --

RILEY: It appears in the finance article, Mr. President.

PRESIDENT EGAN: It is a proper wording rather than "the time after the enabling act"?

RILEY: It is our wish to effect an early cutoff date. I ask unanimous consent for its adoption, Mr. President.

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

RILEY: Mr. President, on page 5, line 10, after consultation with other delegates this morning, the Committee moves that the word "prospecting" be removed, feeling that it is covered in the following line by the word "exploration". I ask unanimous consent that the word "prospecting" be deleted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed committee amendment be adopted. Is there objection?

TAYLOR: I object.

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

RILEY: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Riley so moves, seconded by Mr. Knight. The question is -- Mr. Taylor.

TAYLOR: I would just like to say a word or two. I believe in the exploration for coal, oil, and gas under the federal act, and

I assume that we will have an act very similar to the federal act, that the person applying for a prospecting permit should have a priority and an exclusive right to prospect a certain defined area. At the present time it is an area of 2,560 acres. Now, if prospecting for these particular minerals -- oil and gas -- that is a very expensive proposition, and if a man goes to prospecting them, maybe he will spend \$100,000 in prospecting or in a couple or three years, which he has to prospect it, and it could maybe be done by various methods -- geophysical or geochemical methods -- but they are all very expensive. So that is why the government gives the exclusive permit to a particular area in blocks of 2,560 acres, and I think it should define that the prospector has the exclusive right of exploration for a specific period and area. I think it should be left in.

RILEY: May I address a question to Mr. Taylor? Mr. Taylor, is it your belief that the word "exploration" need not necessarily include prospecting?

TAYLOR: Well, they are synonymous in the federal meaning, the "exploration" and the "prospecting" are the same.

RILEY: The use of the word "exploration" on line 11 would that, in your judgment, avoid the need for the word "prospecting" on 10?

TAYLOR: No, because if you leave the exclusive right it might be that the person administering the land laws and the mineral laws for the Territory of Alaska could give three or four different parties the right to prospect this particular block of land that they are asking for.

RILEY: If we leave the word "exclusive" --

TAYLOR: Leave the word "exclusive" in there.

RILEY: Yes. I don't follow you there. We are not taking it out. We don't propose to take it out. The word "prospecting" is the only word we are deleting under our amendment.

TAYLOR: First, you get from the Bureau of Land Management a prospecting permit; that is, what is, just a permit for prospecting an area of land. It might be three, four, or five people go in and they each apply for 2,560 acres and then they have a large block. They can go in and group their prospecting to possibly 25,000 acres, and I think the "exclusive" should be in there and the "leases" and "prospecting" because the leasing follows your "prospecting".

RILEY: In this instance the Committee had in mind that exclusive permit for exploration would be issued. It probably would be referred to, loosely, as a prospecting permit.

TAYLOR: That is what it would be.

RILEY: But it was brought to our attention that the word was considered superfluous by others of the delegates, and for that reason we submit the amendment.

TAYLOR: I have had considerable experience in regard to coal permits, and oil prospecting permits, and leases, and I believe that section should go in just the way it is written, that paragraph of that section.

RILEY: I believe there is a motion on the floor.

PRESIDENT EGAN: There is a motion on the floor, Mr. Hilscher.

HILSCHER: May I ask Mr. Riley a question? Mr. Riley, is it your intent to follow the general procedure as is now in the federal leasing and permit system?

RILEY: It is.

HILSCHER: Then it is immaterial whether the word is in or out because that is so clearly covered by the wording of the permits that are issued.

RILEY: As a matter of fact, the state would have a ready-made procedure set up for it, should it accept assignment of any federal leases in existence at that time, which would appear to be the wise course.

HILSCHER: Whether it's in or out, then, is immaterial.

HELLENTHAL: I rise to a point of order. I think that under the modification of the rule we have adopted that amendments to committee reports are not subject to debate. I know some hesitate to debate them fully at this time when they will be considered twice more at another time under our rules, and I feel that debate on the committee report is out of order.

PRESIDENT EGAN: No, it is not, Mr. Hellenthal. The Chair will have to hold that your point of order is not well taken in this instance. Mr. Riley.

RILEY: The Committee was given that opportunity this morning and waived it and considered it to be in second reading.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, Mr. Taylor has stated that the terms "exploration" and "prospecting" are synonymous. If that is true, it isn't needed twice there. The harm the word "prospect"

would do is this: prospecting covers all types of prospecting, including the oldtimer who goes out with a pack on his back with pick and shovel. We are dealing with oil and coal here, but a lot of people are going to read this constitution, and these individual prospectors, when they glance at this, they will see that the state is allowed to give out exclusive rights for prospecting and they won't like that. Of course, if they read further and saw it was the right of exploration for coal and oil that would be different. But since they are synonymous and we don't need that word "exploration" and it might give rise to a little anticonstitution feeling, I think we should strike it.

UNIDENTIFIED DELEGATE: Question.

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

RILEY: On line 25, Mr. President, page 5, the Committee proposes that a period be placed after the word "legislature" and the balance of the paragraph stricken. This general reservation of fish and wildlife has been stated elsewhere and I ask unanimous consent for its adoption.

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

AWES: May we have it read.

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

CHIEF CLERK: "Line 25, page 5, insert a period after the word 'legislature' and strike the balance of the section."

RILEY: Mr. President, there may be other committee amendments to succeeding sections, but this is as far as we went this morning before being called back to session. I am not certain, Mr. Hellenenthal, but I may be overlooking one of your suggestions that the Committee may have adopted, but this was just at the end of our deliberations and we are not certain that it was.

HELLENTHAL: No.

PRESIDENT EGAN: If there is no objection, the proposed committee amendment is ordered adopted. Are there other amendments to the preamble of the article of Proposal No. 8/a? If not, are there proposed amendments to Section 1? Are there proposed amendments to Section 2? Mr. Sundborg.

SUNDBORG: Mr. President, may I be permitted to ask a question, please?

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

SUNDBORG: Mr. Riley, has your Committee considered the point which I raised last night about this language, "in accordance with provisions of applicable action of Congress" in connection with possible legislation on fish traps?

RILEY: We have considered it this morning, conversationally, with a number of delegates present. Without having conducted any study on the point, since you raised the question last evening, the Committee does not feel that a danger exists here. I should say that probably within the next day or two, if that view is not confirmed, I feel sure we could put it back in second reading should it have progressed beyond that.

SUNDBORG: Is the Committee pursuing the matter to be absolutely certain?

RILEY: Yes. The title of 2535, for example, and every other enabling bill that has been proposed, points up the congressional view that each state admitted is admitted on equal footing, but I should say the Committee's final reply should be held in abeyance on that.

DAVIS: Mr. President, may I ask Mr. Riley a question?

PRESIDENT EGAN: You may, Mr. Davis.

DAVIS: Mr. Riley, in Section 2, line 14, or actually lines 12, 13 and 14, it says, "The State of Alaska shall provide for the utilization, conservation and development of all of the natural resources, including lands and waters belonging to the State." It appears to me that as that is written it is broad enough to cover all natural resources, no matter whether they are privately owned, publicly owned, or what they may be. I am wondering if you did not intend to put a comma after the word "waters" at the end of line 14, so that it would then become clear that we are only talking about natural resources belonging to the state.

RILEY: That would be my conception of it, Mr. Davis.

DAVIS: There wasn't any intention that the state is going to develop natural resources on either federal land or privately owned land, is that right?

RILEY: No. The sections covered in the commentary states all resources over which the state has a proprietary interest, and I think that point is well taken.

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PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, did he ask unanimous consent?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mrs. Nordale had just made a suggestion that I think is even better, if it is all right with the Committee. Take the words "belonging to the state" and place them after "resources", so it would read: "All the natural resources belonging to the state including lands and water."

RILEY: I think the Committee would be receptive to that.

PRESIDENT EGAN: Mr. Davis, are you so moving the disposal of that wording?

DAVIS: I would, and ask unanimous consent for that transposition of words.

PRESIDENT EGAN: Does the Chief Clerk have that transposition?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Are there other amendments proposed to Section 2? To Section 3? To Section 4? Are there amendments to Section 5? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I don't want to make an amendment, but I would like to ask the Committee -- I notice in this place, it is the only place that a natural resource is put under a commission and I would like to find out just why it was necessary. I know there is a controversy in that matter, and I would just like to have it explained.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I would like to ask Mr. King to answer that question first.

PRESIDENT EGAN: Mr. King.

KING: Mr. President, of course we all know this has been a very controversial matter, and the feeling of the persons, organizations, and the wildlife agencies as to -- they expressed a desire to spell these things out in the constitution. It wasn't in detail, setting up various departments, of course, but it wasn't the feeling of the Committee that such should be done

here, that it should be confined to basic constitutional provisions. Now, the thing, of course, we know, being part of the controversy, is a difference of opinion between the sportsmen organizations and the Fish and Wildlife Service as to separation of the departments into commercial fisheries department and into fish and game departments, which would include sport fish. We thought here that this would be a compromise. Now, on my way through Juneau, and letters we have from Mr. Anderson of the Territorial Fisheries Department, the Director, I spoke to him on my way back here and he had no objection, whatsoever, to the commission form. Now, as we know, one of the most successful operations while we have been under federal control in the Territory of Alaska, has been the Alaska Game Commission. That is a commission that was established and has lived without criticism. The organizations throughout the states, the three states -- the Pacific Coast states which are more closely related to us than any other people, have established forms of commissions to do this work that we are talking about here; and we thought here that this would only provide guiding lines to the Territorial legislature, giving them permission to establish a commission or commissions that would govern this type of resource.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to address a question to Mr. Smith.

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

V. FISCHER: With the provision here for the establishment of a commission or commissions, would it preclude the creation of an over-all department of resources including not only fisheries, wildlife, but also lands and whatever other resource subdepartments there might be?

SMITH: In my opinion, Mr. Fischer, it would not. I think under the present Territorial law we have such a resources board and under the present Territorial setup we also have the commission-type management for our fisheries department. I do not believe it would preclude the establishment of such an over-all resources board.

V. FISCHER: I am not speaking in terms of a resources board. I am speaking of a department within the executive branch.

SMITH: I would say that the answer would still be "no".

V. FISCHER: Thank you.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I have an amendment on the Chief Clerk's desk in relation to Section 5.

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

CHIEF CLERK: "Section 5, lines 12 and 13, strike the words 'to a commission, or'."

JOHNSON: I move the adoption of the amendment.

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

KNIGHT: I second the motion.

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

JOHNSON: We have had a great many communications in the last few days regarding this matter, and it seems to me that if the words "to a commission, or" were taken out of the section that it would more nearly be in compliance with the wishes of the people that have been communicating with us. I don't think that it detracts in any way from the section, and if we just direct the legislature to set up a separate commission for each branch of the fisheries, then I think we are complying with the wishes of the largest group of the public.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I will have to speak very definitely against this amendment to the motion. I know that there are two thoughts on this matter and the men that are making their living on the fisheries are very definitely opposed to two separate commissions, and I think if the matter is left up to the legislature and where it is handled in the proper manner, it would be fine, but I know if this motion should carry we would be doing harm to a lot of our citizens who are depending for their livelihood upon fisheries.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, probably, I should say I am speaking for myself and not for the Committee. This question has been discussed widely both before the Convention and since that time. From my viewpoint the insertion of Section 5 in its entirety was a concession to the pressure brought by the sports fishing organizations or the game fishermen's organizations. Actually, my thought was that all this section did, as it originally read, was to say that game fish, wildlife, and commercial fish

should be delegated to a commission or to commissions leaving it up to the legislature as to whether that should be one all-inclusive commission or two separate commissions. Frankly, I would have preferred to see no mention made of the subject in the constitution. I think the constitution throughout, I think the Convention as a whole has throughout the consideration of all of the articles stayed away from setting up commissions or departments in other things in the constitution, and my preference here would have been to follow that procedure in this instance. However, you are all aware of all of the flood of telegrams, communications, etc., that have come in. Just today I received three telegrams from commercial fishing groups in support of leaving this entirely to the legislature. I had not intended to ask that those be read, in the hopes that we might not get into this argument. I would like to say further that before the Convention began, I took this question up with all of the fishermen, the commercial fishermen and the sport fishermen whom I could contact in the Ketchikan area, and I expressed to them my thoughts that the whole matter should be left to the legislature, and they were in agreement. I also submitted this question to the Alaska Fisheries Board which held a meeting just before this Convention began, and I also expressed to them the thought that this should be left to the legislature and they were in perfect agreement. The fact that we have not had more communications from the commercial fishermen, and those who advocate leaving this to the legislature, I am sure is due to the fact that it had been discussed and agreed that this matter should be left to the legislature.

PRESIDENT EGAN: Mr. Stewart.

STEWART: May I ask a question of Mr. Smith? Did you not also receive communications from Mr. Anderson, the head of the Territorial Fisheries Board urging that it be left to the legislature?

SMITH: That is absolutely correct, Mr. Stewart. The Committee and I received communications from the Alaska Fisheries Board and from the Alaska Department of Fisheries, recommending that this matter be left entirely to the legislature.

STEWART: May I make an amendment verbally?

PRESIDENT EGAN: An amendment to the amendment?

STEWART: I move we strike Section 5.

WHITE: I second the motion.

R. RIVERS: Point of order.

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

RECESS

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

JOHNSON: Mr. President, I move and ask unanimous consent to withdraw the amendment which I had offered to Section 5.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent for the withdrawal of his proposed amendment to Section 5. Is there objection? Hearing no objection, it is so ordered. Mr. Stewart.

STEWART: Mr. President, after having discussed this matter a little bit with others, I, also, at this time withdraw this amendment.

PRESIDENT EGAN: Mr. Stewart asks unanimous consent that his proposed amendment be withdrawn. Mr. Taylor.

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

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

CHIEF CLERK: "Strike Section 5."

TAYLOR: I move the adoption of the amendment.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the amendment, seconded by Mr. White. The proposed amendment is open for discussion. Mr. Taylor.

TAYLOR: I would like to speak on that, Mr. President. Now, under the executive article the power was given to establish up to 20 departments of the state and I cannot see where there is any doubt but what there will be a committee, a commission, or a department of resources under which would be commissions to administer the fisheries, the commercial fisheries, and a commission to administer the game fish and game. That would be one of the most important departments of the new state and they would have the inherent power and the all-power that would be given to them by the state to do just what it intended to do under this; but we are trying to confine this subject of such importance to a commission, that I think it should be stricken and let the resources department do everything it is supposed to be in here. I have no doubt but what, due to the great difference in commercial fishing, and the game fishing and game, that a separate bureau or a commission could be set up under the department of resources to handle those particular matters. And I think by leaving this in here we are going to do the state

a disservice, the fact that that will preclude a department of fisheries or a resources department that would be setting up the way they want to handle it, because they would be then confined by this constitution to having a commission or commissions to handle it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, thousands of people in this Territory feel strongly about this. I would say maybe as many as 10,000 and a good many of them have taken the trouble to send us letters and wires urging that we have a provision of this kind in the constitution. If we leave the language exactly as it is in Section 5, I believe we have met the desires of everyone of those people who have wired to us. If we strike it, we are inviting criticism and trouble, and trouble on the ratification of the constitution from those people who do feel very strongly, and I feel with good reason, that with our heritage of fish and wildlife up here, we should be very careful; we should be more careful than any state that has ever entered the union before this, to see that they are administered and regulated by commissions which would not be subject to the political control of the state as it may go from administration to administration. I feel very strongly that we should leave it as it is. Now, all of the things that Mr. Taylor says should probably be done or would be done by a legislature, can still be done if we leave it alone. We can have an over-all department of resources which would have under it a commission for the administration of the fisheries and a commission for administration of the wildlife or a single commission for the administration of both. I don't think it ties the hands of the state or does a disservice to the people of the state in any way, and I think if we strike that, we are really going to be in hot water. Now, I don't like to yield to pressures just because the pressures have been built up, but I feel these people do have a good case, and we ought to leave Section 5 alone.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. President, in the time we have been here we have all taken cognizance of any opinions that the various lawyers had to take because we have felt that we could trust their opinion because that is their business. This is getting back to my business. I am going to vote against the amendment, and I hope that you will do the same.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, as a member of the Committee, I would like to explain why I seconded the motion and why I support it.

Mr. Sundborg has stated, correctly, that we have had large numbers of communications representing very large numbers of people on this subject, but the section, as it stands does not, Mr. Sundborg, solve their problems or satisfy them except insofar as one of their requests was that management of the fisheries and wildlife be delegated to a commission. If we are to follow the next step of their request, it would be that it be relegated to separate commissions, as Mr. Johnson suggested in the amendment that he withdrew. If we are to follow it to its complete conclusion, we would include a page, or two pages here, setting out an entire plan, something similar to the Missouri Plan, so this has been boiled down to a compromise which really doesn't satisfy any of the parties to this controversy except those that suggest that these matters be delegated to a commission, or separate commissions. Both points of view are represented there in any event, and I feel that to make an exception in this one case, to state that it will be a "commission" is not constitutional matter and that it would be more properly treated as a resolution from our Committee or the Convention to the first state legislature.

PRESIDENT EGAN: Mr. King.

KING: Mr. President, I will have to take exception to Mr. White's remarks that this does not satisfy anybody. I think that is certainly contrary to the common belief. Dr. Gabrielson spoke to the Convention here and told them what type of thing that was best for this; Dr. Bartley appeared before our Committee; they all expressed, these different people. As I spoke before, I talked to the Director of Fisheries on my way through this time. I sat with him and talked to him. He was not opposed to a commission form that they are talking about here; I talked to him, I have letters from him; he was not opposed to this. I don't think you are talking about pressure here when you are talking about telegrams and letters. You are talking about the will, the wishes of people; I can't say that those are pressure groups. Those are people just like the rest of us. I belong to three or four sportsmen organizations. I don't think I am putting any pressure on anybody; I think it is the will of the people, the will of 2,000 people alone in the Alaska Sportsmen Association, and this is just one of them. I think this is a very good thing; I think this is just a guide; this has been very successful all throughout the Western states, this type here, and it is a guiding line to the Territorial legislature to make a successful operation.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to speak on this amendment because under the executive the same problem arose. We discussed there, not only one board or commission or department

but the interests of a great number, so under the executive department we have provided that there shall be departments with single heads as principal departments; there may be multiheaded departments; there may be regulatory boards as established by the legislature. Now, I think we would be doing a grave injustice to the commercial fisheries and wildlife groups, both of them, if we failed to allow them the freedom that we allow other departments of government. If we let this stay in we are forever tying them under this constitution to a commission form of government. They could have this form under the present executive. They could have a multiheaded department under the present executive; they could have a singleheaded department, either separately or jointly as the importance of their function in the state government desired or required. Now if we tie them forever to a commission form of government, that is it; but if we leave it as it is under the executive, they may have their choice for the present or may change as they desire in the future. They may adopt any and all of these forms they recommended or any of the other forms of government that we have provided for in the executive. I for one would favor striking of the word "commission" but with the full understanding that they have now the power to have this type of administration if they so desire, and this way you would limit it to the one thing, and the one thing only, for all time.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I feel called upon to speak against this amendment here. The sports fishing and game and commercial fishing are among the greatest resources of the Territory, and if they are properly conserved they are going to continue to be a great resource, and I believe it is a resource that is great enough to be dignified by leaving this section in the constitution and leaving it in, in its present form. It was a compromise on the Committee; I feel it should be a compromise upon this floor. Now, we have already, under the article on finance and taxation, have arranged so that if the federal government ever stops paying funds into the fish and wildlife, it will be an earmarked fund, and it will no longer apply. We have taken that whack at the sports fishing and game commission in the Territory of Alaska, and I disagree heartily with Mr. Victor Rivers. It is true that in the executive branch of the government, the proposal that has gone through second reading here, that they have set up the very machinery whereby a commission of this kind could go into effect. That was the thought I had when they established the 20 principal departments and said there may be other regulatory or quasi-judicial departments there, that they meant by that something along this line, a commission form that could be set up. This is the only time I am going to speak, Mr. President. I will have to ask the delegates to bear with me just another minute here; but as to Mr. Anderson, who is presently head of the

Department of Fisheries there, I want to point out to the Convention, I don't go strongly on what Mr. Anderson says or what the head of any present department of the Territorial government says. I have served on the ways and means committee and have seen these various heads of departments, and among the leaders of which was Mr. Anderson, who are desirous of only one thing, that of perpetuating themselves in office, and naturally it is a desire, if we transfer suddenly over to a state, that Mr. Anderson would like to become the head of all the departments covering everything here. Well and good, if there is one commission set up by the legislature, I have no particular objection to Mr. Anderson being the head of that department, but if it is his desire there to interject, or attempt to interject, as a department head, things into this Convention that are going to harm the sports fishing and the game commission of this Territory, then I am opposed to Mr. Anderson. It is simply a purely and a wholly selfish view as it is with the heads of practically every one of these departments; and if you serve on one of these committees, the finance in the senate and ways and means in the house, and see the attitudes that the heads of these departments take to perpetuate, and the attempts to perpetuate themselves in office, then you can very readily see through any stand Mr. Anderson might take upon these things. Now as I say, this matter here was a compromise in the Committee. I hope it can be a compromise in the Convention with the sportsmen here. I have been presented with material, as all the delegates have, and requested to make amendments, and could go on making amendments ad infinitum here, but I have felt that if this can be held in, it still leaves it up as the legislature shall prescribe, and if they want to set up one commission, well and good, or if they feel it is necessary to set up two commissions under it, or under a principal department head, or however they care to do this, at least we are recognizing this one great segment of our population, or if you will, two great segments of the population and also the future, because of the thousands of people who will move to the Territory with the thought in mind of hunting and fishing either on the sportsman level or the commercial fishing.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I have not --

PRESIDENT EGAN: Mr. Riley, the Chair does not wish to interrupt, but the Chair would like to state, with your pleasure, that the photographer is set up in the gallery for a picture during the noon recess. He has been ready for quite some time. It will only take about five minutes and upon the recess, if every delegate would remain here and go into the gallery, and it might be well if we have that done at this time, because we are holding him here. If it is the wish of the Convention, we will hold this

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amendment over until following the noon recess. Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee announcements, I move that we recess until 1:30 o'clock.

PRESIDENT EGAN: Mr. Sundborg moves that we recess until 1:30 p.m. Mr. Smith.

SMITH: I would like to announce a meeting of the Resources Committee at 1:00 o'clock in the gallery.

PRESIDENT EGAN: There will be a meeting of the Resource Committee at 1:00 o'clock in the gallery. Are there other committee announcements? Mr. McNealy.

MCNEALY: A meeting of the Ordinances Committee at 1:00 o'clock in the committee room upstairs.

PRESIDENT EGAN: There will be a meeting of the Ordinance Committee at 1:00 o'clock in the committee room upstairs. Mr. Sundborg.

SUNDBORG: Mr. President, Style and Drafting Committee will meet immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Local Government Committee will meet at 1:00 o'clock.

PRESIDENT EGAN: Are there other announcements? If there are no other announcements and if there is no objection, the Convention will stand at recess until 1:30.

RECESS

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

MCNEES: Mr. President and delegates, we have in the gallery Miss Sally Carrighar who has written numerous articles for the Saturday Evening Post and who has made her home here in Alaska for some time.

PRESIDENT EGAN: Miss Carrighar, we are happy to have you with us and hope you enjoy the proceedings this afternoon. (Applause) We have before us the proposed amendment as offered by Mr. Warren Taylor to Committee Proposal No. 8/a. The proposed amendment is the deletion of Section 5 from the proposal. Mr. Sundborg.

SUNDBORG: Mr. President, I raise the point of order of asking whether Mr. Taylor discussed this amendment and cleared it with the Committee as required by our rules?

PRESIDENT EGAN: Mr. Taylor, did you discuss the proposed amendment with the Committee?

TAYLOR: Yes, I did and they said to bring it up on the floor of the Convention. They said they did not want to make any changes in the Committee, and if there were any amendments, they were to be brought up on the floor.

PRESIDENT EGAN: Is there further discussion on the proposed amendment? Mrs. Hermann.

HERMANN: I would like to ask a question. I would like to know if this word "commission" as it appears in the text refers to a board or a department such as the Department of Fisheries that Mr. Anderson at present heads.

PRESIDENT EGAN: Could anyone answer that question of Mrs. Hermann's? Mr. Riley.

RILEY: Mr. President and Mrs. Hermann, I have in mind that all of the proponents of a commission or commissions have been thinking in terms of the commission that we know as the Alaska Game Commission, the commission which is charged with the administration of the Department of Fisheries. Is that responsive to your question?

HERMANN: Well, I just am not sure whether it would restrict, whether the language you have in there would restrict the governor to the appointment of a board rather than a department of wildlife, such as the department of fisheries is.

RILEY: All of whom I have discussed it with have suggested that they had in mind a board or commission charged with running a department or a section of a department confined solely to the fish or game field, as the case might be, with two commissions. I have heard during the noon recess questions with respect to the same section and I think in the same nature as yours. I believe it fair to say that most of those have been concerned with two words: "and administration". I am not in a position to speak for the Committee in this respect, but in adopting this language the Committee has had in mind a commission that would issue, promulgate regulations in these two areas and would be charged with overseeing the executive agency which had the responsibility for management in this field.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Was it the Committee's feeling that the legislature would not have that power unless it was included in this proposal?

RILEY: I don't know that that question arose. I see it is a valid question and some doubt is left by this language. I have no recollection that the Committee discussed depriving the legislature of the regulatory function.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, there is no doubt in my mind, whatsoever, in the absence of this section that the legislature would have that power.

HERMANN: In the absence of this section? Then, Mr. President, I would like to state my position in regard to the amendment to strike. I am very much opposed to boards and commissions on general principles, and I do not believe that they should be made a part of a constitution. I think that the legislature, if it has that authority to create a board temporarily and dissolve it at its later pleasure, should not be tied down by a permanent provision of the constitution requiring them to administer fish and wildlife by the commission or board form of regulation; and if the legislature does not have that authority or if there is any doubt in the minds of any of the delegates that the legislature has that authority, we could easily amend the section by saying that the regulations, etc., should be prescribed by the legislature. Personally, I am of the opinion that it does have the authority, and I would certainly hate to see a permanent part of the constitution advocating the control and regulation of any of our natural resources or any of our departments of government by the commission or board form of government. I shall have to vote for the amendment, though I am not averse to having two commissions if the legislature wishes to prescribe them, and I am not averse to putting in provisions that will carry out the wishes of the Sportsmen's Association; I think we have the authority already.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I have the same feeling toward this section as Delegate Hermann has and I feel that the language is covered very well under Section 17 of our proposal 10/a which provides that the legislature may put principal commissions at the head of departments, and I feel that if we are going to make an exception of not putting in any language as to any one board in the judicial item, I don't see why we should have the fish and wildlife commission provided for in the constitution. I think the legislature should have full and a free hand to do as they want because they will do what the people wish them to do.

PRESIDENT EGAN: Is there anyone else who wishes to speak in the negative? Mr. Barr.

BARR: Mr. President, I would like to ask a question and also make a statement. I personally wish that this had not been brought up, but I think a great many people do want a statement in the constitution as to how the fish and wildlife will be administered in the state. I would like to ask Mr. Riley, or any member of the Committee, that if there had been no communications to us on this matter, would the Committee still have thought it wisest to have a commission administer the fish and wildlife matters in the state rather than a single department head?

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. Barr, would you repeat the last part of your question?

BARR: If none of us had received any communications regarding this matter from anyone outside the Convention, would your Committee have still thought that the fish and wildlife resources should be administered by a commission rather than a single department head?

SMITH: I can only answer that this way, Mr. Barr, and probably again should speak for myself in regard to my views as to what the Committee would have done. It is clear in my mind that had it not been for all of the communications there would have been no mention of any commission or commissions in this article.

BARR: You never heard any member of the Committee mention that they would be against a single man being the head?

SMITH: I don't believe that the question would have come up at all and that is subject to the expression of individual opinions by any member of the Committee.

BARR: Like Mrs. Hermann, I am against a great many boards and commissions. We are afflicted with a great number of them at the present time and I think the trend is going to be the other way. I believe that the legislature from now on, and especially after statehood, will eliminate most of them. I can see where there may be a very few that are necessary. I see Mr. Coghill does not believe that this is necessary but a lot of people believe that the education of the Territory should be administered by a board. I do, too. It seems to me this might be one of them, and if that is true, to prevent the legislature abolishing our present commission, it would be necessary to put it in the constitution, if we feel that that is the way we want our wildlife affairs administered.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I believe that if this section were left in it could be improved to take care of Mrs. Hermann's objection to it and some of the other objections. I think the point, the important thing here is whether a commission is the better form of regulating these sort of things, and I don't mean a commission right up at the top but rather we would have a head of a department and have an advisory commission or commissions at some lower point to advise that particular head of department, and I think if we could work out a section here that would accomplish that purpose we would satisfy the sportsmen and the commercial fishermen and still not get something in our constitution that is going to tie our hands for the future. The one reason, in speaking for myself, that I felt it was better not to have separate commissions, was that as I understand it, at the last legislature the sportsmen wanted the single commission right down to practically the end of the legislature; then they changed their minds and wanted separate commissions and I feel that if they did not know well enough at that time what they wanted, perhaps they don't know well enough now and we should not tie their hands to something in the constitution, and that is why we have two single commissions or two separate commissions, and I believe if we would retain this section and then correct it to accomplish what we would like to do, that we would be better off.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to be heard. I am concerned about this language "regulations shall be delegated". That sounds almost as though you are commanding the legislature to delegate legislative power to a commission. There are various levels of regulations. Regulations can be by law, where basic factors are covered and with the administrative regulations, delegated to administrative boards or bodies. But unless, as Mr. Boswell suggests, this thing can be reprocessed, I will have to vote in favor of the present amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: I am going to speak in favor of leaving the section as it is. The principal reason is that regardless of whether you strike it or not, you are going to end up with basically the same thing. It has been proven in the administration of wildlife resources and fisheries, a commission form of administration has been the most successful in the wildlife resources. Whether they are tied together or separated is a matter of time. In some states they are tied together and in other states they are separated. In some states as the times changed they are combined and as times

change they are separated again. That has been provided for. Regardless of what is done by this body, the Section 5, I am pretty positive Section 5 will be the standard they will do by. Now, if you leave out Section 5 you create a danger of implying to those people who are interested that you are taking away something from them, primarily because we have set up a very very strong executive department. As long as you set up this strong executive department, I believe the delegates should allay the fears of these people, not only in the sports fishing but in the "bread and butter" fishing too. I think there is no question or doubt about the method of administration of the wildlife resources. I think we should allay the fears of the people who are interested, as you have heard. I think the fisheries will always be with us, as the wildlife will be. There is no state where the impact of fish and wildlife is so great on the people as it is in Alaska, and I believe it can and does deserve special attention. If you strike this section, I don't see how you can keep away from leaving to these people that have been so concerned, that you are actually denying, you are taking away something from them they are used to; they have been used to the Alaska Game Commission. They have set up their own board of fisheries that appears to be the desire of our fishing people. That is what we had. At the present feeling of the people, we want to continue that way, and if you do turn it over to the legislature they will continue, but you do not help but imply that you are going to take away something from the people if you strike this section. I wish the section would remain as is.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I feel impelled to support the motion to strike this particular section. I predicate my decision on the fact that first off, as Mr. Gray has already so aptly pointed out, we do have a strong executive. Secondly, in the event the executive, who is elected by the people of Alaska and who will certainly be particularly sensitive to the will of the people and a good many of those sportsmen are voters, he will be very concerned about this particular department, and I am sure that he will take that into consideration when he is establishing, under his various departments and or in his cabinet, this particular thing that we are concerned with here. Secondly, if the governor does not provide properly for it, it is within the realm of the legislature to establish such method and fashion in which we can operate satisfactorily this particular type of fish and wildlife resource. Thirdly, and what no one has mentioned yet, is we have initiative. The people can initiate and certainly a group of sportsmen who are so pressure-minded as to have flooded this Convention hall, with various types, both pro and con of communications, they will not be bashful about

initiating a type of legislation that is necessary to prosecute the very desires that they seek to do. The last reason I oppose this section is I dislike seeing a board enshrined in our constitution. There is no reason why we have to make this particular exception. As Mr. Fischer said the other day, it is no "holy cow" to me. I don't see why we have to bow down and enshrine this particular type of a commission or board in our constitution. There are ample remedies, not only at the polls, but by their own initiative, so I am supporting the motion to strike.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I have to agree with Mr. Gray and vote against this amendment. I think the fish and wildlife is an important enough resource of ours it should be mentioned in the constitution. I do believe that it could be corrected by an amendment later.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: It seems to me that this section is very bad as it is written. It removes the whole regulation and administration of the commercial fisheries from the executive branch of the government, because it says "regulation and administration shall be delegated to a commission", and I don't believe that we want any department set up separate and apart from the other main branches of the government. Our executive article says that regulatory bodies need not be put into a principal department, and right here it gives complete force and effect to that. They would never put it under the executive branch, they would not have to. I don't like the way it is written.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I rise for a question to the Committee. Don't you think that in being so insistent upon the commission being enshrined in the constitution that most people advocating it thought it also would carry along with it a certain number of earmarked funds? Don't you think that was the main intent rather than just the body itself?

SMITH: I would like to ask Mr. King if he would like to answer that.

PRESIDENT EGAN: Mr. King.

KING: I don't believe so, Mr. Rivers. As you know, I am a minority of one on this Committee, but I don't believe that the Committee felt that at all.

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V. RIVERS: I did not mean the Committee. I meant the request to the Committee, had envisioned this request having this unalienable source of revenue?

KING: I don't think so.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I wonder if the Committee would consider the rewording of Section 5 as something in this order -- that the management of the commercial fisheries --

PRESIDENT EGAN: Mr. Armstrong, at this time we have an amendment by Mr. Taylor before us; whether or not the Committee, if it has anything to do with that particular question at this time, as the Chair sees it, although others have mentioned it.

ARMSTRONG: It seems to me, Mr. President, if we could arrive at a wording that would retain the section some would vote then against the amendment.

R. RIVERS: May we have a two-minute recess?

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

RECESS

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

WHITE: Mr. President, I would like to answer a question posed by Mr. Victor Rivers if I may in which he was inquiring about earmarked funds and commissions. The Alaska Sportsmen's Council in a letter dated October 24, 1955, advocated the inclusion in our constitution of certain sections of the Missouri State Constitution, Sections 40, 41, 42, 43, 44, 45 and 46, as a complete program. It says in part, "The fees, monies or funds arising from the operations and transactions of the commission shall be expended and used by the commission for certain purposes and for no other purpose." So it was certainly, originally an integral part of the plan. We have now come down to retaining only the idea of a commission or commissions and I think no one can say with certainty that all people who favored the whole plan would favor the retention of the commission without the other parts of the plan.

PRESIDENT EGAN: Is there further discussion? The question is -- Mr. Taylor.

TAYLOR: I would just like the opportunity of closing.

PRESIDENT EGAN: Is there anyone else who wishes to be heard before Mr. Taylor closes? Mr. Armstrong.

ARMSTRONG: I shall offer an amendment to retain part of this wording and I think correct some of the abuse that some people seem to feel is inherent in this which would make it possible to have commissions if the legislature so ordered.

PRESIDENT EGAN: That is, after we vote on this amendment. Mr. Coghill.

COGHILL: I rise to a point of information on Delegate Armstrong. It is already provided for in your executive article and you don't have to have it in here at all.

PRESIDENT EGAN: Mr. Taylor has the floor.

TAYLOR: Mr. President, possibly the membership of this Convention might believe that I am against the sportsmen of Alaska, but I am not. I am just as much interested and desirous of conservation and the regulation of fish and game as I think any person in this house. But the fact that I am interested in these matters is for the reason that I am offering this amendment to strike this section because I believe it would be a disservice to the fishermen and the hunters of the Territory by leaving it in. I think it would be a disservice to the other people of Alaska who are not particularly interested in hunting or fishing. Now, if this section in its present form became a part of the constitution, we would be reversing a stand which we have taken here and which many members of the legislature have taken for a number of years in regard to commissions, and instead of eliminating or abolishing some of these commissions, we are saddling by this constitution, the state with not only one commission but maybe two to handle one subject; fish and game. It looks to me like we are trying to backtrack in this thing. Now, if we adopt this in the Convention, and the legislature did then take action upon this particular section and they did establish two commissions, one for game and one for fish or one for commercial fishermen and one for game fish and game, there is no way we can abolish either one of those commissions unless we amend the constitution of the state, which is not an easy thing to do. So, I think that the Convention should think twice before they pass this section in its present form because if we read this and give each and every word its common and accepted meaning, the construction of this section is that the executive departments and the legislature surrendered to some unknown commissioners on a game commission their power and prerogatives which we have given to them in all other matters in this constitution except the game fish and game; because we once set up the commission in the matter that is provided for in here, we have

delegated to them all the power to deal with those particular matters, and who are they answerable to? Nobody, they are the commission; they are the regulators and the administrators. They might have to answer to the legislature -- nothing in here that says they would. So, then we have one independent commission or possibly two, which no matter to what extent they go, we cannot get rid of them unless we have a constitutional amendment and do we want to go so far as that that we are going to surrender our rights and our prerogatives? When I say "our", I mean the legislature's and executive department's prerogative, to this commission. Now there are quite a number of us here who have been in the legislature, have been in there one or two or more times, and we know when the legislature is in session down there the corridors of the capitol building are cluttered with commissions that are appearing there to report and have meetings and spending the taxpayers' money. So, why should we make an exception in this particular instance of something we are trying to get away from, the establishment of more boards, more commissions? Now, also, I have listened to Mr. McNealy; he is all for this commission. I have listened to Mr. Sundborg; he was all for this commission; also, Mr. Gray. Mrs. Hermann, perhaps, expressed her opinion as to this commission matter in much better language than I can, and I am going to adopt Mrs. Hermann's speech as my sentiments in that particular matter. We know recently the political winds have started to blow --

McLAUGHLIN: Mr. Chairman, point of order. I think, perhaps, these remarks might be interpreted as being personally addressed. I am sure Mr. Taylor does not mean them as such.

TAYLOR: If they are, I apologize.

HELLENTHAL: Don't they involve the five-minute rule?

PRESIDENT EGAN: Do we have any five-minute rule? But the Chair would ask that all delegates would preclude any political feeling on the floor. Mr. Taylor.

TAYLOR: I'm not going into the political field; I was just saying to these members here that possibly have been kissed by the political breeze that has been blowing at this Convention, that this Committee would not have thought about this unless it had been for the clamor put up by this particular segment of our population. Perhaps this political breeze, as I say, that has kissed the cheek of prospective legislators might be the reason that this is in the resources section.

PRESIDENT EGAN: The Chair feels that references such as that are reflections upon the delegates and that they are not in order. You may proceed with your arguments on the proposed amendment.

TAYLOR: Mr. President, we had here some experts that we paid quite a lot of heed to. We had experts in the judiciary field and we had experts on the resources field. Now on January 16, 1956, a Mr. Ostrom, who was supposed to be an expert upon resources, wrote a letter, January 16, just a few days ago; and among other things he said in this letter, he said, "I am still much concerned about the serious consequences of constitutional reference to the delegation of regulation and management of fish and wildlife to a commission or commissions." Now there are the words from the man we spent thousands of dollars to bring up here and help the Resources Committee. We have also a communication dated earlier. This was a week ago, and this was from Mr. Anderson, Director of Alaska Department of Fisheries. Those who know Mr. Anderson know of his conscientiousness to duty and desire to aid the fisheries of Alaska; and among other things he says, "The creation of boards and/or commissions for supervision of the various natural resources should be a legislative prerogative." He doesn't want it in the constitution. Now, if my amendment is carried and this Section 5 is voted down, I don't believe it would take the Committee over five minutes to sit down and write a section to take its place which will express the intent of this Convention and will not delegate all the powers of the executive, the chief executive, and the legislature, to a commission; and I hope that my amendment carries.

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

JOHNSON: Mr. President, may we have a roll call?

CHIEF CLERK: "Strike Section 5."

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

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

Yeas: 34 - Awes, Buckalew, Coghill, Davis, Doogan, Emberg, V. Fischer, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, VanderLeest, White, Wien, Mr. President.

Nays: 21 - Armstrong, Barr, Boswell, Collins, Cooper, Cross, H. Fischer, Gray, Hellenthal, Johnson, King, Laws, Lee, McNealy, Nolan, Peratrovich, Reader, Riley, Sundborg, Sweeney, Walsh.)

2520

CHIEF CLERK: 34 yeas, 21 nays and none absent.

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

ARMSTRONG: Mr. President, I would like to move a new Section 5 of Proposal 8/a which would read as follows --

R. RIVERS: Point of order. It appears to be long enough to be handed to the Clerk.

ARMSTRONG: I believe the Clerk has it in the form of deletions and additions.

R. RIVERS: Those don't apply now because the section is --

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

RECESS

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

KILCHER: Point of order, Mr. President, and information at the same time. If we move to strike a section without substitution, just to plain strike, wouldn't that then express the will of the majority to consider the matter dead?

PRESIDENT EGAN: It is not the opinion of the Chair that moving to strike a section makes it, by that action, dead as you might say. It is dead at this moment. If someone offered an amendment to change the intent or the meaning of the original section, it would be in order so long as it was not the same thing. It is not correct, no, that when you strike a section it is dead forevermore. Mr. Armstrong.

ARMSTRONG: Mr. President, I will try to see whether it is dead or not by trying again. My parliamentary procedure seems to get off the track, but I have left an amendment with the Clerk by way of Burke Riley's shorthand. So we will ask the Clerk if she would read it, please.

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

HELLENTHAL: Slowly.

CHIEF CLERK: I will. "Section 5. Regulation of the commercial fisheries and of the wildlife, including game fish, may be delegated to a principal department of the state or to a commission

or to separate commissions under such terms as the legislature may prescribe."

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

ARMSTRONG: I would move for the adoption, sir.

STEWART: I ask unanimous consent.

McNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconded the motion. Mr. Riley.

RILEY: I wish to disavow authorship. That is all I have to say on the matter.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Point of order. I simply want to know if, in accordance with our rules, this has been previously presented to the Committee or whether the Committee Chairman has waived that requirement.

SMITH: Mr. President, the amendment was presented to the Committee. The Committee took no action.

PRESIDENT EGAN: The question is -- Mr. Smith.

SMITH: Mr. President, I would like to say just one word on this. I think if you read this carefully you will see that it simply says that laws may be passed by the legislature for the regulation of the commercial fisheries; they may delegate those powers to principal departments or commissions. The same situation would exist exactly without this language in the constitution. Therefore, I am opposed to the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I will have to vote against this amendment for the principal reason that before we were voting on merely the implication of the language in the constitution; they are going to eventually end up, they are going to end up the same way with the same thing, and all we are voting on is the implication that you are trying to take away things, and the way things are; and this amendment, as presented, is the same as striking out, in my own personal opinion, the implication is there.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, the original report said that the legislature should delegate their authorities to a commission. It

eliminated the single department head. Now Delegate Armstrong's amendment allows them to do as they wish but they already have the authority to do as they wish; we are just telling the legislature they are empowered to enact a law considering these matters, and they already have the power to enact a law, so the amendment is unnecessary.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Section 16, the executive article, says, "The head of each principal department shall be a single executive, unless otherwise provided by law." And another article says the legislature can provide boards and commissions, so I think they have the power already.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Armstrong be adopted by the Convention?" All those in favor of the adopting of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments? Are there amendments? The Chief Clerk will renumber the sections following the original Section 5. Mr. Robertson.

ROBERTSON: Mr. President, may I have the privilege of asking a question about Section 3?

PRESIDENT EGAN: If there is no objection, Mr. Robertson, you may ask a question, relating to Section 3.

ROBERTSON: I would like to ask either Mr. Smith or Mr. Riley if they think the word "replenishable" is the apt word to use or has enough scope? As I recall at our hearing in Juneau a doubt was raised as to that particular word. I don't know as I recall particularly, but I think it was raised by Mr. Greeley, the Regional Director of Forests. The forests are not replenishable, but they are renewable. I was just wondering if any thought was given to that word being the correct word.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Chairman, I believe Mr. Robertson and I have discussed this very briefly before and probably during those hearings. The Committee has considered the use of both "renewable" and "replenishable" and from a number of sources I had thought up until now, including Mr. Greeley, we decided to adopt "replenishable". Now, after discussing it during our hearings, Mr. Robertson, I did endeavor to find a legal definition of the two words and it was my conclusion that a fuller definition had been given to "replenishable" than had been given "renewable". I

recall that two or three people who have appeared before the Committee have expressed a preference for "replenishable", people who have served in the resource management fields, including the consultant whom we relied on to a large extent.

PRESIDENT EGAN: Are there amendments to the new Section 5? To the new Section 6? Mr. Boswell.

BOSWELL: Mr. President, I just wanted, for the record, to speak in connection with Section 6, that this section is not intended as authorization for the state's entering business in competition with private industry. That appears in our commentary, but I thought it should be in the record.

PRESIDENT EGAN: The new Section 5 or new Section 6, are there amendments? Are there amendments to new Section 7? To the new Section 8? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask the Committee if they have considered rephrasing the words "interests therein". During the question period we were a little bit dubious about that expression.

PRESIDENT EGAN: Mr. Riley.

RILEY: We have -- I should say I have, with other delegates, given it some attention and I thought possibly there would be an amendment from the floor. I am not sure that is going to be the case, but we have not come up with other language yet and perhaps during the next recess further attention may be given that.

PRESIDENT EGAN: Are there other questions relating to the new Section 8? Mr. Davis.

DAVIS: Mr. President, Mr. Riley, calling your attention to the language in the last sentence, "The legislature shall make provision for the selection and administration of lands in the state and public domain." I don't know just what you mean there by that word "selection". I am wondering if you intended that to apply to selection of lands for the state public domain from the federal public domain under any enabling act that may be passed.

RILEY: That was our thinking, yes, selection of the lands to be granted by the United States through the enabling legislation.

DAVIS: I can see where your language covers administration of the land, but it seems to me you haven't accomplished your purpose on the selection.

RILEY: I think your point is well taken from the time standpoint, and perhaps that, too, should be subject to further Committee consideration at the next recess.

PRESIDENT EGAN: Are there proposed amendments to the new Section 9? Mr. Barr.

BARR: Mr. President, now it says here that the state may lease any part of the public domain subject to reasonable concurrent uses. Why don't you use the same reasoning in that section dealing with mining? Why can't you give a coal lease and still allow somebody to drill an oil well on it or prospect for gold?

PRESIDENT EGAN: Mr. Riley.

RILEY: I am badly mistaken if we don't do that.

BARR: The word is "exclusive" use in your mining section.

RILEY: I see your point, Mr. Barr. That distinction, touching on the minerals now subject to lease under the federal government, may be qualified elsewhere in the section. I will have to check the text on that.

BARR: The last part of Section 5.

RILEY: Throughout we have held to the concept of concurrent use wherever practicable -- that is concurrent use if it should under the circumstances be possible is what we have sought to achieve and here again, rather than offering an off-the-cuff solution, I will try to consider that during the first recess.

BARR: I would just like to have you appear consistent.

PRESIDENT EGAN: Mr. Smith.

SMITH: I get the feeling we do appear consistent in that the terms of lease could provide for concurrent use.

BARR: But you are using the word "exclusive" right in the section.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Barr, it seems to me in the section you refer to it says "leases giving exclusive right of exploration". The parent clause on leases, Section 9, provides that leases can be given subject to reasonable concurrent uses. There is no reason why they could not be of another use, concurrent to right of exploration.

BARR: It is interesting, Mr. White, but that answer does not quite satisfy me.

PRESIDENT EGAN: Are there amendments to the new Section 10? Mr. Robertson.

ROBERTSON: May I ask Mr. Riley a question? I notice in this section, Mr. Riley, in line 17, you use the word "interest" and you have used that also in Section 8 and in subsequent sections. Would not the word "estates" be a better legal terminology to be used instead of "interests"?

RILEY: We were thinking also of stating resources. We get to the physical resource itself.

HELLENTHAL: If we are discussing this matter --

PRESIDENT EGAN: We are not discussing it, if you have questions or amendments, Mr. Hellenthal. Are there amendments to Section 10? Mr. Marston.

MARSTON: Mr. President, Delegates, this is the reason I came to this Convention. I waited two months to get here and I hope you will keep your minds and hearts open for a few minutes.

PRESIDENT EGAN: Mr. Marston, do you have an amendment to offer?

MARSTON: It is being passed out. I have it in there.

PRESIDENT EGAN: Perhaps if the Chief Clerk read the amendment first -- would the Chief Clerk read the proposed amendment?

CHIEF CLERK: "Insert the following as Section 12 and renumber the succeeding sections in sequence: 'The Legislature shall provide for translating the traditional rights of Alaskans of Indian, Aleut or Eskimo ancestry to the use of land, fishing, hunting and trapping areas into approximately equivalent homestead or other property rights. Provision shall also be made for just compensation for the impairment or extinction of such rights resulting from grants of land or timber or mining rights in the State public domain. Nothing in this section shall be construed to be in lieu of or prejudicial to any aboriginal rights or claims now pending or later to be filed.'"

PRESIDENT EGAN: Mr. Marston, we might go on and finish with Sections 10 and 11 and then come to your section. Are there amendments to the new Section 10? Or the new Section 11? Mr. Metcalf.

METCALF: May I ask a question of Mr. Smith? As I brought out before the Committee, on line 4, page 4, "and shall provide for

access thereto;" I would like to have it clear, if I own a section of land adjacent to the highway and the state leases a piece of land beyond my land, just what process will the state use, according to this phrase here "and shall provide for access thereto"? Is that just a legal right-of-way, or is it an actual road, or do they go through the process of eminent domain? Can you explain just how that will work?

PRESIDENT EGAN: Mr. Smith.

SMITH: Being a technical question, I will refer to Mr. Riley.

RILEY: This is the same question we discussed in Committee earlier this afternoon and the same illustration, and at that time, I believe we were all of one mind that the paragraph concerns reservations that will be withheld by the state in conveying state lands. However, under other provisions, Mr. Metcalf, access could be had by condemnation across your ground which might so lie as to cut off the state grounds beyond.

METCALF: Now, who would compensate me for this right-of-way? Would the state do that?

RILEY: Whoever condemned.

METCALF: The private individual would pay the cost and the state would not be put to that expense?

RILEY: If the state condemned it would be the state, or otherwise it would be the private party. That is not actually covered by this language. This section doesn't touch your problem as I see it.

METCALF: I am interested from an expense standpoint whether the state is going to pay for condemnation or whether the private party that leased the land.

RILEY: Whoever wants to get across your ground and sees fit to condemn a right-of-way would have to go through the usual condemnation proceedings.

METCALF: They would have to pay for that and the state would not have to pay the expense, is that right?

RILEY: Not unless the state were the condemning party.

METCALF: I am just wondering where it says "shall provide"; the state could be the condemning party.

RILEY: This has to do with the sale of parcels of real estate owned by the state, the state sale on some of its own ground,

and in selling its own land this authorizes the state to reserve or to retain access across the land so sold.

METCALF: That would not apply to leases then, would it?

RILEY: Access would be possible, too, in the event of lease. The United States today in issuing patents, reserves some comparable rights of way.

METCALF: It is all right with me if the lessee should pay the cost of the condemnation, but if the state is going to have to pay it, I am opposed to it.

RILEY: The lessee would hardly do it because he would be leasing the property in the first place and he would be able to use it at random; unless it is the lessee behind your property you are speaking of, and in that case he would be the one to condemn, I suspect.

METCALF: He would be the one who would have to pay then?

RILEY: The cost would be on him.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, five years ago our legislature passed a law reserving a strip along each section line for highways, I believe it was 120 feet wide which would take 64 feet off of each section. In other words, if Mr. Metcalf acquired this land from the state within the last five years he does not own a section of land, he owns a section less a strip surrounding it, 64 feet wide and this preserves that same intent.

PRESIDENT EGAN: Are there amendments to new Section 10 or the new Section 11? If not, Mr. Marston, do you move the adoption of your proposed amendment?

MARSTON: I move the adoption of this proposed amendment.

PRESIDENT EGAN: Mr. Marston moves the adoption of this amendment. Mrs. Sweeney.

SWEENEY: Mr. President, I am wondering if this has been cleared through the Committee?

MARSTON: I went to the Committee on two occasions and they are in sympathy with what this amendment calls for, but they took refuge behind HR 2535, and the evidence from the legal stand will be presented here showing that that does not necessarily hold.

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

LONDBORG: I second the motion.

PRESIDENT EGAN: Mr. Londborg seconds the motion. Mr. Marston, you have the floor.

MARSTON: Delegate Peratrovich has talked about this, and the delegate I talked to during lunch time says this has come up at every Indian or Native convention he has attended. It comes up because it is never settled and every morning here we pray to the God above to guide us and direct us and I wish that His ambassador, Jesus, were here this afternoon and would show you the way to vote on this question. Here is a letter addressed through me to this Convention from an Eskimo living up on the Bering Sea, and there are many more letters here, but this is a typical letter addressed to the Alaska Constitutional Convention at the University of Alaska so it is addressed to you through me. In the second paragraph: "I have something to bring up myself in connection with our land problems, mostly of our fishing camps and our homes. Around here in Unalakleet, and also around outlying villages, we have fishing camps, from way back without anything to show in papers, claims or clear titles -- only fish racks, tent frames and cache stands to show, and there are particular places for fishing and camping, whether they are in the beach or on the rivers, they are in the main places we are to catch our winter needs each year. By what I have gone through I can say this much -- it is pretty hard winter when some outfit gets into his camp and uses it for nothing -- I have not fished at my camp site for three seasons because some outfit is working in it. I would suggest strongly we need to have our fishing camps rights, and settle it. Settle it to have any outfit or any organization as a group to pay for using any camp site instead of doing anything as they please with any camp site. This part of Alaska is still hard living. It is not developed yet, no roads built yet to go any place where we want to or to go near our trap lines. We still use dogs to go places in winter. We need to have our seasonal living livelihood to get by each year until something is done in this part of the country. Also, our homes here in Unalakleet, and in other villages, too, we don't own lots for our homes. We don't have any clear title for our homes. We have been under reservation too long. Most of us young people begin to realize that. Reservations are just getting us behind in many ways of living as an average American citizen. We begin to realize that we have been put aside as Natives too long. We young people would like to see our children grow up as any average American living citizen, living with equal rights as white men. We are just as good a human as anybody from black to white. Here's wishing you lots of luck, your friend, George Lockwood, Unalakleet, Alaska." This is the plea that has been coming across the desk

of the white man ever since he came to this country. It has not been heeded, it has been pushed aside just like now it is pushed aside because of HR 2535. I wish that this delegation would make this document live by putting heart and soul and justice and taking care of the needs of a thing present in our midst. This man is appealing to you for his little livelihood; for what he already owns, these titles were good. All this bill asks for is that you give clear title to the home ground where he lives and to his camp site. Those titles were good in the Native land when the Natives lived there, but the oncoming civilization which is crossing over an older civilization has made inoperative those titles that were once good and I maintain it is up to us to make good those titles. These people, now in our preamble -- we speak of the pioneers of Alaska. Well, they are great. You see a man with boots on, a packsack, a pick and shovel, and a pan. We speak much in our Convention here about founding fathers -- great men they were, but greater men and many more of them lived long before the founding father or before the prospectors hit Alaska, and there are 30,000 of those people living here now in Alaska, and we have passed them by, as George Lockwood says, too long. These great people have done great things for us. We would not be here now if these people hadn't come here and had taken up this land and showed us the way. What do the Indians, the Natives give us? They gave us corn which has fed millions of people and is feeding millions now and making tens of thousands wealthy by growing corn, one of civilization's greatest blessings, I think. It gave us wheat; the Indians gave us corn. Our new civilization is running over the old civilization. It is a great civilization coming here. After the war a new group are coming -- not to get rich and get out -- but they are coming to raise families and make their homes in Alaska. They want to do right by the people that are here, but this Convention can do something about it, can correct an evil. Many people, Eskimos, Indians, and Aleuts have born, lived, and died waiting for the blessing of the great "white father" to settle on them under the aboriginal rights and they have not been treated right. They have missed their blessing, and the time has come when the great "white father" to settle down on these people what he has promised them. "A pal's last need is a thing to heed; a promise made is a debt unpaid." George Lockwood is my pal and your pal, and he is pleading to you now; and there are many George Lockwoods over the Arctic and in many places asking you to come and help them out. It is not their fault -- they don't want anything different than anybody else. They want to be just like you and me -- equal. We have destroyed their title by our new civilization. The government has promised them great blessings. Generations have come and lived and died and the blessing has not settled upon us. We can make this document live if we will just make clear the title and here is all I want you to do under this amendment. Mr. Londborg, will you show them this location here

of George Lockwood? I can show it to you. Here is all this does. (Mr. Marston took the map up to front of room.) This is all that amendment asks for. George Lockwood lives at Unalakleet, right here. He lives right there (pointing to map) on a little piece of ground and he wants a title to it. He has a fishing camp up here. He would like to have title to that five acres. There is where the military is now occupying camp for three years, and pushed him aside. The cats have destroyed his blueberries, the beach where his kiddies played they can't play there anymore, and for three years he has been dispossessed of that position by the military who are building a radar station up here. If he had title to that ground, as you and I would have, he would have no complaints, so in the name of decency and honor and common ordinary right, I ask this Convention to adopt this amendment and let George have his ground saved for him and a little camp site where he makes his living by fishing and hunting. That is all this amendment does. We can make this Constitution with heart and soul and justice in it if we just do that little thing and not forever pass by these people that are pleading to us. We have problems here; let's recognize them. I believe this Convention has the honor and the justice and the will and the free-wheeling among them to do this job which the United States government has been unable to do. Aboriginal rights have nothing to do with it. It merely clears title for his home site and for him camp site and that is all that does. I present it the best I can. I have a very humble way of presenting it, but I hope you realize the moment and the greatness of this little request by George Lockwood. There are many more letters here if you want to read them, but this letter tells you the story. I have told you the story and it is up to you. Let your conscience be your guide.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to point out a parallel, if I may, between the situation as Colonel Marston has described it, and our own situation as residents of the Territory of Alaska. I was born and raised on a Blackfoot Indian reservation. I grew up among the Yakimas and the Nez Perces. I came to Alaska as quite a young man and I feel I have been living on a reservation ever since, and I resent it. I resent it so much that for at least 15 years I have held hard to the fact that some day we would be sitting in a Constitutional Convention such as we are today, expressing ourselves as a free people and a desire for freedom of action. I do feel, furthermore, that these Native people of Alaska who have made such a great contribution to our own civilization as it exists here in the Territory, are entitled to a voice within our constitution. I would like to have a serious discussion, serious consideration given to this proposal. I am neither supporting it now nor am I denying it, but I am saying in this constitution we must

make provision for these people who have made such a great contribution to our own civilization.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to just say a word or two regarding this. I have not had a chance to read over this particular proposal before now, although I think I understand the intent of it. When a white person wants to come to Alaska he is usually pretty sure of getting a job or some security of some kind. There are some that just hit the trail and see what they can make out of it, but usually there is a sense of security that all of us want if we are going to settle and live in a place. Now, most of us are secure; we have our homes; we fight to get title for our lands; I don't think you would put up a building of any size using, maybe, the greater share of your earnings on a little plot of ground in a city unless you had some title to it, and somehow or other, we have worked it out so that the white people can get title to lands in the cities and out around other places, the Homestead Act for those who care to do that, and yet for some reason or other the government has just overlooked the basic need of the Native people. Now, this is not giving them, as I understand it, any large tract of land; it is not giving them anything that's new; it is just giving them security to what they are claiming right now, and as Mr. Marston said, have claimed down through the generations. Last night it was brought out very clearly the problem in connection with trap lines; some kind of a right to a trap line. Well, the Native has always had a right to his particular trap lines; I have seen it in operation where a family will have a trap line and they have had it for two or three generations, and it will be passed on to their children, and if someone marries into the family, then they have their share in that particular trap line. But a white man can come along, maybe under some government work or something of that nature, and just disrupt the whole economy of that particular family; no apology is made. It is just part of the white man's civilization, and it rolls on and on. This reference to Mr. Lockwood is just one single incident that has happened many many times. I am personally acquainted with that; Mr. Lockwood had this particular little site; he had a place built for summer home where he and his family would spend time fishing each summer and then in the winter time they would be back in the village so their older children could go to school. The children play with our children a lot; we are very well acquainted with this family; yet now his whole fishing site has been disrupted. The construction company has moved in; they have disrupted the home site that they have and, of course, if Mr. Lockwood could go on the white man's standard and get a job for a construction company, maybe he would be satisfied, but inasmuch as the unions have the right to say who can work, he can't do that. I think it would bear

some very serious consideration here in the Convention as far as this proposal is concerned.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, this amendment was not cleared with the Committee; however, I think that the Committee would all agree to waive that presentation to the Committee in order that we might not delay Mr. Marston's presentation. I am sure that the Committee is in full sympathy with the problem presented, but I am just as sure that there is nothing we can write into this constitution which would correct the problem or fully solve the problem presented by Mr. Marston. Now, the Committee did discuss this question with Mr. Marston on Sunday. The Committee's thinking was gone into very thoroughly at that time, and I would like to ask Mr. Riley if he would care to express the Committee sentiments.

PRESIDENT EGAN: The Convention will be at ease for a moment.

(Mr. Egan requested Second Vice President, Ralph Rivers, to take the Chair at this time.)

SECOND VICE PRESIDENT: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, as Mr. Smith has said, Delegate Marston did appear before the Committee on two occasions, I believe, and the Committee in transmitting its article to the Convention called attention to Delegate Marston's similar delegate proposal introduced at the outset of the Convention. Our transmittal carried this language: "Proposal 26 was considered to be beyond the province of the Committee and without the scope of the Constitution. However, the Committee recommends that the Convention adopt a suitable resolution addressed to appropriate federal agencies now in position to remedy the situation which Proposal No. 26 seems to reach." It has been suggested to me, during the recess a moment ago, that the Committee on Miscellaneous Provisions might also appropriately consider this matter, but I think there are good and sufficient reasons why the Convention, as such, cannot cover this matter in the constitution. Now, we have heard frequent mention this afternoon of fairness and decency and obligation and morality and that sort of thing, but I think there is a greater morality involved here, as far as the constitution itself is concerned, and that is that we should not offer any gifts that we are not in position to deliver and may not ever be in position to deliver, at least as far as this specific piece of ground is concerned, or any other specific piece of ground. The enabling bill, every bill that has been proposed in recent years has required the new state to commit itself to certain disclaimers, and language from the

Committee hearings on Senate 50, last year, 1954, I believe, states: "In order to make certain that the protection afforded the Natives of Alaska by the required disclaimer clause is applicable to all lands actually in their possession as defined, and is not confined only to land which such Natives have a legal interest. The committee amendment specifically extends the protection of the disclaimer not only to lands actually owned by Natives but to lands which for periods of at least three years prior to the enactment of this act have been in the possession and actually in the use or occupations of Natives." I do not agree with Colonel Marston that we have made no recognition of this large segment of our population, this very important segment. I think we have made precisely the same recognition of them as we have for all of the people in our bill of rights and every other section of the constitution which concerns the rights of citizens generally. I do feel that existing machinery in the federal government, if accelerated, would ultimately get to this problem. I know that it has not to now on a satisfactory basis. In recent years the Bureau of Indian Affairs has sent hearings examiners, I believe their title is, to Alaska in an effort to accomplish a sort of a tribal probate, or a probate in the Native tradition, to establish ownerships and lines of succession to the use of particular properties. It has been a grievously slow process, and it is one of several means whereby the federal government, if it were to speed up the process, could ultimately get to this very problem. That was our purpose in suggesting appropriate resolutions from the Convention to certain of the federal agencies involved. I think that if the Convention were to refer the matter to the Committee on Miscellaneous Provisions that perhaps further strength could be given it there.

SECOND VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Mr. President, I should like to be heard in favor of the adoption of this amendment. We have listened to ambiguous language, which reminds me of a Southern senator discussing a civil rights bill in the North, or a Northern senator discussing an antilynching bill in the South. It looks like we are walking on eggs when we discussed this subject in the Committee. This is not a complicated subject. This is the kind of a subject that school boys and the average man understands and understands thoroughly. It is a matter of common decency, Christian decency if you were, and there is no complicated legal problems about it; there is none of this double talk or nonsense necessary. This is a very simple fundamental and elementary problem, and a very, very pressing problem in Alaska. Now, first, do not confuse this problem with the problem of aboriginal rights. Aboriginal rights deal with the group right of tribes and groups of people to enter into areas and pursue certain occupations and the like. This refers to the individual right

of a human being to pursue a small trap line, a fishing wheel, to go to a blueberry patch, to occupy the land around his house, and to follow his traditional pursuits. So, let's first put the thing in its proper perspective. Let's analyze what Congress did about it. Congress did not say that the Alaska constitution should not treat this subject. Congress could have said that very simply and easily but Congress did not say that. Congress did not trust you and me. Congress did not trust Alaskans. They were so afraid that we would not take care of our own people that they said, "This is one subject that we want to hold the whiphand on just in case you do not act like Christians, in case you don't act justly and don't act fairly to your own people." Any language in this house bill, and I have it before me, merely is more of an urging and an invitation to us to be decent and what it says, in effect, is that if you are not decent, we will be decent. Now, for many years in Alaska I have watched the old battle of "let's try to hook Uncle Sam into doing something that we normally should take care of ourselves", and I can see where it would be nice if Uncle Sam would dish out the money and I don't think it would be an enormous sum of money to take care of these individual rights, but I think it would be a black mark on our conscience if we did not face this problem and solve it in our constitution. Now, this amendment deals first with the individual rights of our own people; it applies to the state lands that will become the patrimony of the new State of Alaska. It is not retroactive; this is what we will have to do under normal condemnation procedures if Uncle Sam doesn't do it. Now, follow that again. To compensate these people, our people for these rights, as provided in this amendment, is merely a duty that we will have if Uncle Sam doesn't have, and this duty exists in the absence of this language even. Let's face it. Now, I want to make it concrete. We all agree to this grand principle that has been enunciated in this article before us, of the balancing of rights and where a superior right comes along that the lesser rights must give in, with compensation. In other words, if the legislature decides that Alaska needs a great dam on a fishing river, under this article, this beautiful article that we have before us, we enunciate the principle that in the public interest the dam will be given priority; the fishing rights will be compensated for. That is fine; that is nice; that appeals to the chambers of commerce; that is big stuff; that is high-level thinking. Let's bring the same thinking down to the low level, to the average man, the poor man that doesn't have the articulate chambers of commerce to support him. A small mine, if you were, goes into an area where there is a river; they need to use that land to further their placer mining. In the middle of the land they desire is a blueberry patch that has been used by an individual Native, and I don't laugh at that because that is the way those people eat, and that is the way they were brought up; that is the way they

live and there is nothing funny about it. Those people, they must yield; they must give to the miner because in the hierarchy of value the mine is more important to the people as a whole than that poor individual. He is compensated for his blueberry patch; if it is a trap line he is compensated for his trap line, and that is the way it goes. Now, that is basic; that is just decency, and I think that the language in the house bills that was referred to as having been in each one is not necessary because we Alaskans are going to take care of our people, and we should take care of our people. Now, people undoubtedly will jump up here and say how much this is going to cost us -- we are writing a blank check. Well, you have got to take some risks with statehood and this is the kind of a risk that I want to see taken.

LONDBORG: May I ask Delegate Riley a question or two?

SECOND VICE PRESIDENT: If there is no objection, yes.

LONDBORG: Mr. Riley, you mentioned something about the fact that saying we are going to give something that we don't have a right to give. As I take it, you mean that we would say here we're going to settle the issue where they live and then the national government would not give us that particular land to give to them. Is that right?

RILEY: I was simply cautioning against our offering something that we might not be in a position to give. I say there is no certainty the state will ever collect George Lockwood's five acres in order to give it to him.

LONDBORG: Or that the national government may hold it back and not give it to us?

RILEY: Either would be possible. I don't know what status it is in today; whether it is subject to any federal reservations or otherwise withdrawn which would deprive the state of any opportunity of selecting it. We should not build up hopes today for something we may or may not be in position to act upon at some indefinite time in the future.

LONDBORG: In other words, if the government, for some other reason, holds it back, it ceases to be our responsibility, but if we should acquire it, then it would seem the inclusion of this amendment would show us what we are intending to do with it.

RILEY: If we could be sure we would acquire that particular property and perhaps 10,000 other small properties at random, checkerboarded throughout Alaska, I would say that we had firmer ground to stand on in making such an offer.

LONDBORG: Would there be any objection of asking for such, that you can see at all? After all, we should have our villages included in Alaska.

RILEY: Certainly, as I envision it, the state will ask for the most attractive land it possibly can find, including land adjacent or near to established communities because to the degree that it is near established communities, there is some likelihood that it will be of value.

LONDBORG: I will go along with that. Then if we would ask for land like that and the federal government would not give it to us, then the responsibility is theirs; we have at least discharged our duty, but if we get it then this could be our intent if we adopt this?

RILEY: Do you wish to suggest an amendment to this?

LONDBORG: No, if it is just understood, that it is public domain, when it becomes Alaska, if this --

RILEY: If this becomes public domain we are agreeable to its being given in five-acre parcels to the occupants. I think that would make the picture clearer for those in the position of George Lockwood.

LONDBORG: Certainly I can see that, and I realize they have been promised too many things that they have never gotten. I think we should be clear on the issue; however, if that should be the point, I think we could discuss probably at the next recess such things that would make the issue a lot clearer. I just wanted to bring that up if that was the objection that we may not get the land; either we don't ask for it or the federal government does not give it to us.

RILEY: That was one of the hazards that I suggested.

LONDBORG: If I may indulge for a moment --

McCUTCHEON: Point of order, Mr. Chairman. Mr. Londborg has spoken.

SECOND VICE PRESIDENT: Right. Mr. Davis.

DAVIS: Mr. President, this is something that is very hard to talk to after the eloquent and emotional appeals that have been made by the two previous speakers. As a matter of fact, so far as I am concerned and I believe I speak for all 55 of us, we consider the Eskimo and the Indian a citizen just the same as all the rest of us. We don't consider that he is any better than we are, and we don't consider that he is any worse. He is a man just like we are; and he is entitled to all the rights

and privileges and all the duties of citizenship, just as we are; and he is covered by the bill of rights that we are adopting here, just as we are. Now I will start out with the proposition that the Eskimo and the Indian ought to have title to his house, and ought to have title to his fish camp, just as you and I are entitled to our property. I will go further and I will say that these restrictive deeds we have been passing out to them are a shame and a disgrace. I would like to see them have their property. But as Mr. Riley pointed out awhile ago, this is not ours to give. And if we tried to adopt something like Colonel Marston has requested us to adopt here -- in the first place, we couldn't possibly fulfill it; in the second place, we have for some reason or another attempted to make people think that possibly we can do what we can't do. Now, the Eskimos and Indians being citizens should be entitled, and I think are entitled, under existing law to have their towns platted out and to get their property just as it has been done before. Now, I am not certain, we talked, of course, about Unalakleet awhile ago, but it is one town in one part of Alaska, and of course we have other towns in all parts of Alaska that will have the same problem. I started to say I don't know whether Unalakleet is or is not presently a reservation. I was informed that it is, and I don't know whether it is or not. If it is, of course, then there is nothing we can do about that particular town except to try to get the reservation removed if that is what those people want. I don't know whether it is or not because these reservations, at least the recent reservations, were established by the will of the people involved. Maybe they have changed their mind or maybe for that matter it is not a reservation, but the trouble with this whole thing is that even if we had the right to do what Colonel Marston has asked, the proposed section here doesn't even come close to accomplishing it. Let's read it. "The Legislature shall provide for translating the traditional rights of Alaskans of Indian, Aleut, or Eskimo ancestry to the use of land, fishing, hunting, and trapping areas," and I want you to note that word "areas" -- "into approximately equivalent homestead or other property rights." There isn't any question at all if you take that the way it is written, that there won't be any public domain of the State of Alaska because certainly some Indian, some Eskimo, some Aleut had an interest either in trapping, hunting, or fishing rights in every foot of Alaska at one time or another. And I don't think that is what Colonel Marston intends to do, I am sure it isn't. What he wants to do is to give these folks their five acres of ground for a headquarter site for their home, and I would like to see them have it, but as of today that land all belongs to the federal government. I think we ought to do everything that we can do as individuals or as a group to see they get their rights as citizens to that property. When and if Alaska becomes a state and gets this public domain we have

been talking about, if in that public domain there appears some of these homesteads, some of these homesites, some of these villages, I would be all in favor at that time, if they have not previously gotten title, in seeing that they get title to their property if we can do it, because as I said to begin with, they are citizens just as you and I, not because they are Indians, Eskimos, or Aleut, but because they have the right to own their property just as we do. But in my opinion this proposed section will not do what it is designed to do. It would certainly upset the entire possibility of Alaska having any public domain and would be setting up one group of our citizens as against the rest of our citizens. I hope that the proposed amendment will be voted down.

SECOND VICE PRESIDENT: Mr. McNealy.

MCNEALY: Mr. President, I am in favor of the amendment. I believe there should be some amendments to it, however, to make it workable, I am going to speak now in favor of the amendment. In regard to the leaving of the matter up to the Congress, and there we come into the matter of restrictive deeds, I have had correspondence here from parties who are opposed in some of the villages, and I speak for this particular area now, the central part of Alaska, if you will, and that they fear that -- they have the letters where titles were issued to the Natives by the federal government and leaves that land within the town or towns to be incorporated as nontaxable. Now, the reason I mention that fact is if this matter is taken care of by the federal government first, then we have nothing to say on it if they give them the deeds prior, but if they do not, I think provision should be made, and made in this constitution, for the state to give them deeds to their property or take care of it out of the public domain. I grant the fact that that land Congress grants to the state -- it is silly to talk about giving them land that is not granted to the state -- but land that is granted to the state, the state will have the right to give. I think of the numerous villages up and down the Yukon and the Kuskokwim rivers where I imagine the conditions are the same as Unalakleet -- I am not acquainted over there, but where the people have lived for years and years and years in these villages; they have established their homes there and they have no more title to them than the man in the moon. It is not going to do any good, ladies and gentlemen, to refer this matter to the Committee on Miscellaneous Provisions because it may as well be argued out on the floor at this time rather than taking up the time to argue it out later under miscellaneous provisions. I think that some definite provision here should be provided for these Americans who were here long before most of us were in this country. As in closing, as to writing a resolution, I hope the delegation is not affected or anyone by what I might state in

writing a resolution on this subject; if there is going to be a resolution written to the Congress or anybody else, then let's write the resolution with disappearing ink on a roll of toilet tissue.

V. RIVERS: I move and ask unanimous consent that we recess until 3:50 p.m. It is now 3:34 p.m.

SECOND VICE PRESIDENT: If there is no objection, the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there further discussion on the proposed amendment as offered by Mr. Marston? Mr. Boswell.

BOSWELL: I would like to ask a question of Mr. Hellenenthal.

PRESIDENT EGAN: There's no objection, Mr. Boswell, you may ask a question.

BOSWELL: Mr. Hellenenthal, would title pass from the state to these Indians or Eskimos or Aleuts under this amendment?

HELLENTHAL: No, not at all.

BOSWELL: No title will pass?

HELLENTHAL: No title would pass. Their rights only would be recognized.

BOSWELL: Well, how would they be recognized? Mr. Marston spoke about a five-acre plot here and 160-acre plot there.

HELLENTHAL: I think that the word "areas" is misplaced in Mr. Marston's amendment. It should be "land areas, fishing rights, hunting rights, and trapping rights" to make it clearly understood. In other words, that would protect the occupant in his lands, just as the federal government now does, where they go in and survey. The occupant would be protected in the occupancy of his lands, and he would get a title to it, and the rights, which, of course, are lesser and very inferior interests of fishing, hunting and trapping, would be recognized. Envision a situation where a Native person has a -- I mentioned this to Senator Nolan -- envision your own house and lot in the new state patrimony. Say, you get in there and you get a piece of land, and you build a house and lot on it in this new area that will be given to the new State of Alaska: a Native walks through your yard in pursuing of his trapping rights. Now, by recognizing his trapping right, you're not giving him your house and lot, you're merely letting him go through your lands in the pursuit of his trap lines. It isn't giving him any lands -- just recognizing the right.

BOSWELL: Well now, just a moment ago you said it would give title just like the federal government now does.

HELLENTHAL: To lands, the right of the owner and title would, I believe, ultimately be recognized, yes.

BOSWELL: Well, that's the point I wanted to bring out. Now, we have all of Southeastern Alaska as a national forest, and all of the Prince William Sound, including Kodiak Island. Now, that land will never be state public domain.

HELLENTHAL: We're not concerned with that land at all. We're merely dealing here with the state patrimony, and not trying to tell the federal government what to do. This is what we will do as a state when we're given these lands by the federal government.

BOSWELL: But, the point that the Committee was thinking about was that we had no moral right to put in our constitution something that would make the people in Southeastern Alaska think they had a right that may never be realized.

HELLENTHAL: Well, I'm not so sure they can't realize it.

BOSWELL: They could never get title.

HELLENTHAL: Now, what kind of title are you talking about?

BOSWELL: Title to this five-acre plot of ground.

HELLENTHAL: You say now, if a Native in Southeastern Alaska has lived for years --

BARR: Point of order, Mr. President.

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

BARR: Is the Chair being addressed in this debate?

PRESIDENT EGAN: Mr. Boswell has the floor.

BOSWELL: I'm sorry it has gone to this length. I'll relinquish my right.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I feel compelled to speak on this question. If I don't, I'll be a mighty poor Indian. I tried to avoid it as long as I could, but I think it has come to a point in where,

perhaps, a little light on the question, if I can contribute to it, will be of some help. Now, from the proposed amendment and also listening to the discussion, I get the feeling that you cannot compare the Southeastern Alaska in this respect -- that is, the Tlingits or the Indians you might call them, and the Eskimos together, for the simple reason, I think we had a little advantage, or more so, perhaps, than the Eskimos and Aleuts had, because we've had the white contact long before they had the privilege of doing so. For that reason, I think we saw our needs, and in a period of time it was necessary for us to organize into a body as you folks do in your various organizations, like your Red Men and Elks, etc. Now, through this organization we have attempted to have what we feel is our aboriginal rights. And that has nothing to do, as I see it now, with the proposed amendment here. We have advanced to a point where this question of aboriginal rights will be aired in a court of claims in Washington, D. C., on March 2. Now, those of you that have been closely connected with this question, particularly from Southeastern Alaska, are familiar with the difficult discussions and conflicting ideas, perhaps, we've had in regards to this. I personally have agreed with the majority of these people of that particular section that this question has hindered the progress of the Territory of Alaska, and I do feel that way. It seems to me, and I speak for, perhaps, the entire Indian population from this section, that the sooner this question is decided one way or the other, the better it will be for the Territory of Alaska. And, with that thought in mind, I have rendered services to the best of my ability to push this particular question so that it may be settled, and I'm happy to hear -- I just had correspondence here a week ago that this question will be aired in a court of claims on March 2, this year. Now, I appreciate the fact that I've had advantages and consideration as a citizen of this Territory -- perhaps more so than a good many of my friends from my own race -- and I appreciate that. But, however, I cannot help but look back and see sometimes -- I don't like to use this term "injustice" -- being put in practice here and there in regards to some of our people. Now, it's well for perhaps some of you to say, "Well, an Indian can go out here and get land if he wants to under the homestead law, etc." Now, that's been tried by some individuals. Unfortunately, it's not the younger generation. It's the older people that are looking far ahead -- looking for security, just like you are doing, and they wish to take advantage of these laws. But, unfortunately, I don't know where the bottleneck is, but it has never worked successfully in this respect. Now, for that reason I maintain that unless you give this man from up North here some consideration, I think you're going to have the same problem here, perhaps, 20 or 30 years from now. Now, I don't want to ask any special privilege for myself or any of the members of my tribe, you might say. We

have Haida and Tsimshian down there, too, and I don't think they'll ask for any special privilege. They're contented with the fact that their position is going to be aired in a court of claims, and they'll abide by the decision of the court. But, however, it appears to me that you have a situation up here in this division that needs attention. I don't know how you're going to approach it, but at least you have something before you here for your consideration. If this amendment is a solution to remedy that particular situation, then I think you should give it fair consideration. Again, I say I'm not asking for anything for my part of the division because I'm satisfied with what has transpired, but I'm compelled to support this amendment because I'd do that for any one of you, I don't care if you were Indian or what race you belonged to. If you were in the same situation, I'd vote for this amendment.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I can well appreciate the intense personal feeling that Colonel Marston and Mr. Peratrovich feel on this matter. But, it's a sense of duty that compels me to say that this is not the solution that Mr. Peratrovich seeks. I think it's well known to everyone here that in the United States, traditionally and particularly in our Western states, we have been plagued for years by claims -- Indian claims -- and by claims similar -- most of you have heard of them -- of the Spanish land grants, and particularly in California, Sutter's claims against the state. Here we're creating, in substance, whether you realize it or not, a completely new set of property rights. These are property rights; don't be deceived by it. It says the legislature shall provide for translating the traditional rights to the use of land. That automatically creates a property right in the constitution. What is the danger of it? The danger of it is simply this: let us assume that we acquire with statehood this great public domain that's been promised to us. Can it be disposed of? No, it cannot. Why? Because every piece of that land is subject to a property right, and that property right makes everything else subordinate. The use of the land is subject to the proof that it was one of the traditional rights of Alaskans of Indian, Aleut, or Eskimo ancestry. What is a traditional right? I must presume that it's a right that may not now be exercised, but may have been one of the rights of the Eskimos, the Aleuts, or the Indians. In substance, what you're doing, we're not only subject to the question of aboriginal rights, not only are we subject to the question of rights which existed at the time of the Treaty of Cession from Russia, but we're creating now, a completely new set of rights, indeterminate in their application, and in substance no part of the public domain would ever

be insured by a title company without the reservation, "except subject to the traditional rights of Alaskans of Indian, Aleut, or Eskimo ancestry, of the land, fishing, hunting, and trapping areas". All of those things you would get a defeasible title, and, in the event of development, it would plague the Territory for years. If the amendment is voted down, I am prepared to submit one which I feel recognizes the rights and, in substance, can preserve the things that Mr. Peratrovich wants, and with the indulgence of the Chair, I'll read it. "The legislature may provide for translating the traditional use of Alaskans of Indian, Aleut, or Eskimo ancestry, of land, fishing, hunting, and trapping areas, into property rights, or for just compensation for the impairment or extinction of such use. Nothing in this section shall be construed to be in lieu of or prejudicial to any aboriginal rights or claims otherwise provided or reserved by the Congress." In substance, we don't make them rights that subject every title in the Territory to being overthrown, and yet, we give the Territory of Alaska the right to convert them, either into homesteads or to make reasonable compensation for their loss to the Aleuts, the Indians, or the Eskimos. I cannot conscientiously, even though I am quite sympathetic, support this amendment of Mr. Marston's.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I've been through the aboriginal claims controversy when I was an attorney down in Juneau, and this amendment is couched in such broad terms as to suggest group rights and tribal rights, and it brings in the whole subject of aboriginal rights, otherwise known as aboriginal claims. Mr. Hellenthal said that he was concerned with individual rights. Colonel Marston had said that he's concerned with individual rights in small tracts, and I think something can be done along that line. I support Mr. McLaughlin's contention and the contention of those who spoke against this -- that this is not the vehicle to accomplish the purpose which Mr. Peratrovich and these others have tried to achieve. So I will vote against this amendment. I have, also, run a redraft on the subject of small tracts, which I have given to Mr. Marston as an alternative.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may ask Mr. Hellenthal a question, Miss Awes.

AWES: When you and Mr. Riley talked before, I believe both of you referred to certain language in HR 2535. I wonder if you'd read that to us?

HELLENTHAL: Yes. It's in the second section of this proposed house bill or the house bill on page 30. It says, "That said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called Natives) or is held by the United States in trust for said Natives." And then it goes on a little further about Natives, "That all such lands or other property, belonging to the United States or which may belong to said Natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereinafter prescribe, and except when held by individual Natives in fee without restrictions on alienation: Provided, that nothing..." I suppose I should read it all, but I assure you that the next proviso is merely general language that I don't think will help answer your question.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to speak in favor of this amendment to insert Section 12, as such. I feel that I can't speak on it in a legal sense because of the fact that I'm not an attorney, and, therefore, do not possess the ramifications of a legal mind. However, I think that if the delegates will sincerely consider this as a moral aspect, and to let their conscience be their guide, that we do have a problem particularly in the Fourth Division, and possibly the Second Division, as to the rights of lands of the people that have lived there for generations, and have stayed in one particular valley or one particular section. I might, for example, cite the community of Minto, which is about a 100 miles from here, or about 30 miles from Nenana. There the village consists of 200 or 300 Natives. They were all born and raised in that area. One family has a particular direction that their trap line is in. They have no legal right, according to the white man's code, to having their cabins on a particular piece of ground, or they have no legal right to trap to a certain divide or to a certain river. It is solely a moral right, and they have agreed upon it among their people. One of them goes up another river, and in turn they have split up the country in their own way of providing so that there will not be an overlapping of trapping grounds. However, we have had intervention in there in the past years, of white people that wish to go in and trap; they'll go in with an airplane and set right down and violate maybe five or six of those trap lines. That's

putting the Native people completely "behind the eightball" when it comes to preserving any rights or conservation measures that they have adhered to without the consistent entanglements of the Alaska Wildlife Service. They have their own provisions for conserving the beaver dams; they take only a certain amount from each beaver dam, and then move on to another. I believe that the delegates here will be completely hiding an issue if they don't face it and vote on their own convictions as to giving the Native people, who were here long before us, at least their legal right to holding the lands that they are on.

HELLENTHAL: Mr. President, point of order.

PRESIDENT EGAN: Your point of order.

HELLENTHAL: It may not be a point of order, but this is it. I want to ask unanimous consent that this matter be deferred until after the dinner recess, so that Mr. McLaughlin, myself, Colonel Marston, and others who are interested, can sit down and calmly see if we can work out an amendment that will please everyone, and I only make that request to save the time of the Convention.

PRESIDENT EGAN: You're asking unanimous consent that action on this amendment be deferred until after the dinner recess.

HELLENTHAL: If I'm in order, I'll ask unanimous consent.

COOPER: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I second the motion.

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

HELLENTHAL: Yes.

PRESIDENT EGAN: Mr. Hellenthal so moves, seconded by Mr. Taylor.

COOPER: Mr. President, I only object in that Mr. Hellenthal referred to a few delegates that are interested in this matter. I say we're all interested in it, and I'd like to have that clarified.

PRESIDENT EGAN: Is there objection to deferring -- then, you withdraw your objection, Mr. Cooper, now?

COOPER: Yes.

PRESIDENT EGAN: Is there objection to deferring this question until after the dinner recess? If not, it is so ordered, and the amendment will come before us at 7:00 p.m. Mr. Coghill.

COGHILL: I'd like to rise to a point of inquiry. Mr. Marston, will you call a meeting of this for the delegates that are interested in this subject, and at the time and place prescribed by you?

MARSTON: Mr. Chairman, if I may say, the meeting will be immediately after this recess starts, right in this room right here.

PRESIDENT EGAN: It would seem that the Resources Committee might wish to have this come before it in a meeting and Mr. Marston and all delegates. Mr. Smith.

SMITH: I cannot speak for the Committee, due to the fact that the question hadn't been discussed by the Committee. I had felt that the Resources Committee would hold a meeting during the recess, and this question, as well as any others, could be presented to the Committee at such time. I'm at a loss as just to what course to pursue. I do intend to announce a meeting of Resources.

PRESIDENT EGAN: Mr. Marston, it would seem, in the opinion of the Chair, that that would consolidate the meetings, and you wouldn't have one meeting going off in one direction and one in the other, and perhaps when Mr. Smith announces his committee meeting at the time of the recess, it would be understood that all delegates can come at that time, and this matter will be discussed and proposed amendments will be accepted. Mr. Barr.

BARR: Mr. President, I'd just like to make a suggestion. There are quite a few people interested in this that haven't even spoken. Myself, for one, and I know John Cross is interested in it, a lot of us who have had contact with the Natives in the Territory. And that would make a pretty big committee combining with the Resources Committee. It seems to me like this little group should surround Colonel Marston and Mr. Hellenthal first and figure out what they want, and then take it to the Committee. I think it would be done quicker that way.

PRESIDENT EGAN: It seems to me as if it isn't going to be any little group, because it looks to the Chair like every person in the room is vitally interested in this. Mr. Smith.

SMITH: Mr. President, I would just like to suggest that I don't think the interest of the Convention runs so much in the drafting of the constitution as a thorough discussion after it is

drafted. And I am in accord with the suggestion that this group draw the amendment, then present it to the Resources Committee, and then it come on the floor.

PRESIDENT EGAN: If that is your wish, Mr. Smith, then that is the way we will proceed. Are there amendments to the new Section 11 or the new Section 12? Mr. Riley.

RILEY: Mr. President, we have another committee amendment or two, but --

PRESIDENT EGAN: Are there amendments suggested for the new Section 13? Does the Chief Clerk have an amendment?

CHIEF CLERK: I think it's to Section 12, now that we've changed the numbers.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment to the new Section 12?

CHIEF CLERK: "Page 5, line 15, insert period after the word 'law', and insert the following: 'Like permits and leases may also be authorized by law'."

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

RILEY: Mr. Chairman, I ask unanimous consent for its adoption.

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

UNIDENTIFIED DELEGATE: I ask that the proposed amendment be reread.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment once more?

CHIEF CLERK: "Page 5, line 15, strike the semicolon and insert a period, and insert, 'Like permits and leases may also be authorized by law'." Does the rest of the sentence stay in?

RILEY: Yes, it's new matter.

CHIEF CLERK: It's not a period after law, then.

RILEY: The word "and" should be stricken in the new sentence, and there is a period after the word "law".

PRESIDENT EGAN: Also, strike the word "and" after the semicolon?

RILEY: Yes.

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

TAYLOR: I object.

PRESIDENT EGAN: Mr. Taylor. There is an objection, Mr. Riley. Do you so move?

RILEY: I move its adoption.

KNIGHT: I second.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment, it is seconded by Mr. Knight. Mr. Riley.

RILEY: Lest there is any confusion, the only period we will put in is after the third word on line 15. The next sentence commences with the word "like". The fourth word, "and" on that line has been stricken, or I propose it being stricken.

PRESIDENT EGAN: Will the Chief Clerk read that new sentence as it will appear?

CHIEF CLERK: "Like permits and leases may also be authorized by law for the use of geophysical, geochemical and similar methods of prospecting for all minerals.

RILEY: As has been noted, Mr. President, we're dealing with two categories -- the metallic and the nonmetallic fields. The last sentence, the one we're now considering, we've reverted back to both types, and for that reason we seem to set it apart a little further by this language -- the import is unchanged.

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

TAYLOR: Mr. President, I believe that in the preceding paragraph -- not in the section, but in the paragraph -- this says that "The legislature shall provide for the issuance, type, and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law." Now, in the following -- in this paragraph we're on now -- we've got "leases and prospecting permits giving exclusive right of exploration". You don't give a lease for the purpose of exploration, you give a lease for the purpose of production. The prospecting permit comes before. So, in the preceding paragraph you've provided for a lease for these things, for the production, and then in the next section you go and give a lease and permit for prospecting. So, I believe that the word

-- I figured out an amendment to strike the word "leases and" in that paragraph, so that it would be, "Prospecting permits giving exclusive right of exploration..." I think that should be the subject matter of that paragraph instead of leases, because that is provided for in the previous paragraph.

PRESIDENT EGAN: Wasn't the word, "prospecting" deleted?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Previously, Mr. Taylor.

TAYLOR: Out of this particular paragraph?

PRESIDENT EGAN: Yes, the paragraph that you are referring to, yes.

TAYLOR: Now then, we've got two different paragraphs that treats the leases, then; we have nothing that treats prospecting permits, if you struck "prospecting -- leasing and prospecting permits -- if you struck prospecting", so you've got leases giving exclusive right of exploration. Under the law, it's the prospecting permit that gives you the right of exploration, and it's the lease that gives you the right for production. I think that those matters should be straightened out by the Committee, and then, also, if you allow this amendment that has been offered -- it says "on like permits and leases" -- well, you've given something that is not necessary. You should have a like permit; prospecting permit should be given, not a lease, because under the federal act you can't get a lease for prospecting -- you get a permit for prospecting. They're not consistent with each other, because you've got a lease provided for before, and now, if you adopt this, you have no prospecting permit.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Taylor, is that the nature of your question? I have spoken once. Have you addressed that question to me?

TAYLOR: No. I was just arguing on it. (Laughter)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, may I address a question to Mr. Riley.

PRESIDENT EGAN: There is no objection, Mr. Sundborg.

SUNDBORG: Mr. Riley, could you give us some light on the question which Mr. Taylor has just raised? (Laughter)

PRESIDENT EGAN: Mr. Riley.

RILEY: Well, this morning we deleted the word "prospecting" after some discussion concerning the word "exoloration". I believe it was the consensus of the group that "exploration" did include "prospecting". In any event, "prospecting" was stricken, which would leave the sentence commencing on line 10 in this form: "Leases and permits giving exclusive rights of exploration..." Now, initially, in earlier drafts the sentence read, "Prospecting permits and leases". It was brought to our attention that the current practice with respect to oil leases -- the one which is now in vogue, and apparently there is general satisfaction with it, enables the operator -- the lessee -- to start right off with the lease. The oil companies now drilling in Alaska start initially with a lease and not with a permit. And when that was called to our attention, we reversed the order of permits and leases, in order to give stress to leases, recognizing that leases were granted by the federal government to the concerns which are now up here drilling, and were granted, in the first instance, without permits. Just to repeat myself, we feel that the language proposed in the amendment before us calls attention to the fact that we propose that exclusive right of exploration for limited periods in areas shall also be possible under the relatively costly methods of prospecting touched on in the last lines -- 16 and 17; and that's the full import of our amendment. We have two categories of mineral. Those are covered in separate paragraphs on these two pages. But, here in one instance, we group them and say that all types of minerals may be subject to these exclusive rights of exploration under leases and permits, recognizing a unique situation as concerns the method of prospecting.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the amendment, signify by saying, "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Robertson.

ROBERTSON: May I ask Mr. Riley a question?

PRESIDENT EGAN: You may, Mr. Robertson.

ROBERTSON: I still don't understand why, in line 8 on this page -- in fact, beginning on line 6, "The Legislature shall provide for...coal, oil, gas...", etc.; you don't say, "and other nonmetallic metals," but, down in line 14, after reciting the same sort of minerals, you say, "nonmetallic". Why isn't nonmetallic in the first instance? Why do you have it in one instance and not in the other?

RILEY: I think you've pointed out a flaw, subject to correction by any of the Committee members; I recall in inserting "non-

metallic" in line 14, and I believe on line 8, you will find, Mr. Robertson, earlier in the section -- the first page, line 18 -- we stated "other metallic minerals". And I simply failed to pick that one up on line 8, and will submit that, too, as a Committee amendment.

PRESIDENT EGAN: You submit that now, Mr. Riley? Mr. Barr.

BARR: Mr. President, before that's submitted, I would like to know -- since the mineral rights are reserved to the state, if a man stakes out a placer mine for gold, what kind of permit is he going to have for production? Wouldn't that be a lease on gold? In that case you wouldn't want to put that amendment in there, you'd want to include all minerals.

RILEY: Well, minerals such as you speak of, which are subject to discovery and location, are covered in the first portions of Section 13, where we have endeavored to retain all of the federal nomenclature as we know it now in the federal mining law.

BARR: Then he could get a patent on his claim, then?

RILEY: He could if Congress will allow.

BARR: I see. Well, I didn't know, I thought perhaps the state would want to give him a lease in a case like that. I have no objection then.

RILEY: In effect, it would probably amount to a lease, or to a very limited patent.

PRESIDENT EGAN: Mr. Johnson, do you have a question?

JOHNSON: I have a question, if I may.

PRESIDENT EGAN: If there is no objection.

JOHNSON: Mr. Riley, this may be a foolish question, but it was asked me last night, and I didn't know, and I thought possibly someone on your Committee could tell -- the word "sodium" is used there. And the question that was asked me is whether or not sodium is a metallic substance or a nonmetallic substance. If it were metallic, then, of course, it wouldn't fit in your wording of the amendment.

RILEY: I refer you to Mr. Boswell on this, but it's in this particular grouping where it appeared in recent federal legislation.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: It's handled by the federal government, along with other minerals named there, because, I suppose, of the way it occurs. It occurs, nearly always, in the form of a mineral -- combination of sodium and something else. Sodium chloride, for instance, is common salt.

JOHNSON: Yes, I understand that, but if you insert the word "nonmetallic", wouldn't that sort of be a little contradictory to the --

ROBERTSON: I think that's one reason why "minerals" is there as it is.

PRESIDENT EGAN: Mr. Riley, are you holding up that particular amendment, then?

RILEY: It appears that we are, Mr. President, this is one that slipped past us until Mr. Johnson's reminder.

PRESIDENT EGAN: That'll be taken up in your committee meeting, then?

RILEY: Yes, the only one we have pending at the moment is that on line 15 of page 5.

PRESIDENT EGAN: That was adopted, Mr. Riley. We have no amendment before us at this moment. Are there other amendments to the new Section 12? Mr. Kilcher.

KILCHER: Before, I have an amendment, I'd like to ask a question of Mr. Riley, which might --

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

KILCHER: On line 10, page 5, you speak of the leases and permits giving the right of exploration for specific periods and areas. Could you conceive of giving permits for specific exploration? What I mean is this: these permits and leases -- would they cover a specific area and a specific time for all of the minerals, or would the party in question that is searching, either with normal or geochemical or geophysical means, would they have to state for what group or single mineral they are exploring?

RILEY: I don't believe it has been in the Committee's contemplation that they would be limited -- that the prospector or one operating under permit -- limited in time and in area would be entitled to be on the lookout for the entire range.

KILCHER: Should not, in other words, an exploration permit also be specific as to what he's looking for?

RILEY: The Committee hasn't reached that conclusion, no.

KILCHER: Well, another question. Could you foresee, if a permit were specific for a certain group for three or four of these items, would you say then, that the permit would be exclusive for this group, but that concurrently, in the same area, another outfit may be working with different technique -- maybe one outfit is working with just physical means and another geochemical means or normal prospecting methods, could it also get an exclusive permit for a different period of the time, concurrent for a specifically different group of minerals? Is that possible under this paragraph? Or is it the intent or not?

RILEY: As Mr. White pointed out earlier, in response to a question asked by Mr. Barr, the language reads: "Permits giving exclusive right of exploration"; to that extent concurrent use is qualified. But, on your specific question, I would feel that the further qualification, "as prescribed by law" would cover the matter. The Committee hadn't concerned itself with that precise point, but as I read this, the legislature would be enabled to.

KILCHER: Well, to make the question perfectly clear, could you conceive, under this paragraph, that two outfits could simultaneously work in the same area with exclusive permits, but looking for different objects?

RILEY: I could, if this language remains unchanged and the legislature, acting in reliance on this language authorized that which you propose.

KILCHER: Mr. President, I offer a very small amendment that I think would take care of the question and raise it above doubt. To insert on line 11, page 5, between the second and third word, between the words "of" and "exploration", insert the word "specific".

PRESIDENT EGAN: What is your pleasure?

KILCHER: I move that the amendment be adopted.

SUNDBORG: Mr. President, a point of order, has this amendment been cleared with the Committee?

KILCHER: This amendment, Mr. Sundborg, came to my attention right now. Is that in order, Mr. President?

SUNDBORG: It is not in order, Mr. President, unless the Committee Chairman waives the provision in our rules that it must be cleared with the Committee.

PRESIDENT EGAN: What is the feeling of the Chairman of the Committee? Should it be considered at this time?

SMITH: Apparently it is not the wish of the Committee to hold up matters to discuss this question. Therefore, the Committee waives presentation to the Committee.

BARR: Mr. President, I move for a three-minute recess, so they can get together on it.

PRESIDENT EGAN: Did you move the adoption of the amendment, is that correct?

KILCHER: Yes.

PRESIDENT EGAN: Was there a second?

KNIGHT: I'll second it.

PRESIDENT EGAN: And Mr. Knight seconded it. If there is no objection, the Convention will stand at recess for three minutes.

RECESS

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

KILCHER: I still think that the amendment has a merit and will clarify the issue. There are other amendments that are in preparation, I understand, that are going to have their own solution of the same problem. But, at least the problem is recognized as such, and I think this is a solution, together with the intent stated by Mr. Riley on the record. It would leave no doubt. As it is, I think there is quite a bit of doubt about this matter. I don't think it's clear as stated.

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

HILSCHER: I rise to a point of information on this. This is Mr. Kilcher's amendment?

PRESIDENT EGAN: Yes.

HILSCHER: Mr. Kilcher, if leases and permits are given for the exclusive right of a specific exploration for a specific period and for specific areas, how are you going to safeguard against a

promotion deal being put over which might be purely and simply a "scalawag" deal? Now, what I'm thinking of is this: suppose that you gave exclusive rights for specific explorations for uranium or some other mineral or element for a large area -- say half of Kodiak Island or all of Kodiak Island. Can't you see the danger that is going to result in a bunch of sharpshooters going out to raise a large sum of money, which may or may not go into exploration? But they do have the legal right to that area for specific exploration and for a specific period of time. Aren't we leaving ourselves wide open to some of the old type of promotions which were handled here in Alaska dating back to

1898?

KILCHER: If you please, Mr. Chairman.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Hilscher, how much better a promotional deal can the same outfit have if they can go and say they have exclusive rights to look for everything, not just for uranium. I think that answer should be sufficient in that matter. The danger of abuse of exclusive right is greater when it's not specified. My insertion of the word "specific" will also affect that last sentence that has just been added by Mr. Riley's amendment, the last sentence of the paragraph, where the geophysical, geochemical, and other methods are used for all minerals -- gold, etc. If an exclusive permit to look for an allied group of minerals or nonminerals -- I mean, metallic or nonmetallic minerals -- is issued, an allied group, let's say platinum, gold, and silver, I see no reason why it shouldn't be made plain that another company or person with different methods shouldn't be allowed to look for a different group of minerals in the same area and simultaneously, the same season, same summer. I think this would make it plain. The legislature would still have a lot of discretion, they can permit an exclusive lease for five, six or ten minerals; but the company must have a rough idea what they're looking for and what they possibly are looking for, and specify the means of looking for it. They cannot go, in my opinion, they shouldn't go and say, "I'm looking for everything that's in the book and that's not in the book I possibly could find by any possible method, and I want nobody in there for the rest of the summer. That's asking too much. In the case of the geochemical method I happen to know personally that this is not a very expensive method at all. Geophysical, yes; geochemical, no. And there is no reason why an exclusive right in every respect should be given, except for purposes stated. That is what I think I can achieve by inserting the word specific.

ROBERTSON: Mr. President, it seems to me, if I understand the objective of Mr. Kilcher's motion, that the word "specific"

should modify the word "exploration" in the 12th line, instead of the 11th line. I should think that's where the "specific" should be.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by Mr. Kilcher, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying, "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to the new Section 12? Mr. Hinckel.

HINCKEL: Mr. President, I haven't an amendment, but I'd like to inquire of the Committee what their thought was in regards to this. Mr. Hilscher mentioned Kodiak Island. I had already, in conversation, mentioned to him, that wouldn't this permit, for instance, the whole of Kodiak Island being granted for the use of geophysical or geochemical prospecting for a period of time? Or, could it be the whole of the Kuskokwim or the whole Yukon valley, or how are you going to limit this area? Do you just say "and in a specific area"; that could be any area that would be bounded by a geographic description.

PRESIDENT EGAN: Would someone on the Committee care to answer that question? Mr. Boswell.

BOSWELL: As I mentioned last night in discussion, and I will repeat it, that we would expect this particular section regarding permits to be very narrowly applied; and, of course, an oil company now under the federal laws can get a 100,000 or maybe 200,000 acres under a lease for prospecting purposes. And leaving it up to the legislature to discuss, we would expect that they would not give many of these permits, that they would be for very limited times, and it is primarily for the unknown areas of Alaska. And it is similar to the crown grants that Canada uses in an effort to open up mineral lands, where they give a company or an individual who is capable of doing a job this exclusive permit until such time as they find the mineral. And then after a mineral is found in that area, it's open to all comers. They merely have a preference for the short period of the permit, and that is the purpose behind this particular paragraph.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I might add to that that there again we were up against the question of whether or not it was proper to set specific limitations in regard to leases, permits, etc., and conditions change as regards to those things, and we felt strongly, due to that fact, that the legislature should be allowed to set

the limitations in every way, so that they could meet those changing conditions. Now, we run up against this question of limitations a good many times, and we have felt that it would be a dangerous procedure to set up those limitations in the constitution, where they could only be changed by amendment to the constitution.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Don't you think that there should be something that would make the size of the areas uniform? That is, we'll not permit one company to come along and get the whole of the Kuskokwim valley, for instance, and somebody else come along that didn't have quite the political power or something that was necessary, and be limited to a very restricted area. It looks to me like there's just too much chance for finagling around, and favoritism being shown.

PRESIDENT EGAN: Mr. Riley.

RILEY: I think to a considerable extent, Mr. Hinckel, the state will fall heir to the same limitations as now imposed by the federal government under both the recent Alaska Coal Leasing Act or the current Alaska Coal Leasing Act, and the Mineral Leasing Act of 1920. The current enabling bill provides that, at the state's option the state may take over existing leases, and the terms, of course, remain unchanged. I think those existing terms will set the pattern for future legislation by the state.

PRESIDENT EGAN: Are there amendments to the new Section 12? Mr. Marston.

MARSTON: Mr. President, to get outside capital coming here we've got to be liberal. These great lands have laid here for millions of years, and nobody has done anything with it, and the time has come to open it up, to make coming here attractive you've got to give a broad piece of ground and be liberal. I know that Havenstrike started an oil well 18 years ago and Ickes (Secretary of Interior) forfeited his lease on him, he had him shut down after spending \$1,000,000, just a faraway decision. After 18 years, they finally liberalize the law and let you have enough land to warrant you to come in and spend money. I know that Phillips Petroleum spent on the first well over \$1,000,000. The geologist that lives next door to me, and he tells me that story, and it just costs money, and before they'll spend that big money, they've got to have big

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KILCHER: Point of order.

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

KILCHER: Is there anything on the floor?

PRESIDENT EGAN: There's nothing on the floor.

MARSTON: It was on the floor. (Laughter)

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

COOPER: If there's nothing on the floor, may I ask a question? It's not referring to this particular article. It's referring to the amended report of the rules that this Convention accepted the other day.

PRESIDENT EGAN: Is there objection to Mr. Cooper asking a question with relation to the amended rules that we adopted the other day? If there is none, Mr. Cooper, you may ask the question.

COOPER: In the latter part of Section 1 it says, "In the second section-by-section review of the proposal, amendments may be submitted directly from the floor without previous consultation with the committee. What I wanted to ask you, are we now in the second section-by-section review, or are we in the first section-by-section review?"

PRESIDENT EGAN: We're in the first section-by-section review insofar as the amendatory process is concerned. That is the recollection of the Chair. Are there other amendments to the new Section 12? To the new Section 13? Mr. Riley.

RILEY: Mr. President, the Committee has an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed committee amendment?

CHIEF CLERK: "Line 18, page 5, after the word 'All' insert the words 'surface and subsurface'."

PRESIDENT EGAN: What is your pleasure?

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

PRESIDENT EGAN: Mr. Riley moves adoption of the proposed Committee amendment. Is there objection? If there's no objection, the proposed amendment -- Miss Awes.

AWES: I'd just like to ask a question. I was wondering what kind of waters there are besides surface and subsurface? In other words, what's the purpose of the amendment?

PRESIDENT EGAN: Mr. Riley, could you answer the question?

RILEY: I won't undertake to answer that directly, but just today the Committee received word which prompts this proposed amendment. We had had that in an earlier draft -- surface and subsurface -- and had deleted it, thinking it to be superfluous. Today we're advised by one who had met with us over a period of time, that the reference to all surface and subsurface waters should be retained at the beginning of this section. There was such a long controversy about the right of the freehold owner of subsurface waters that this reference should be included to avoid ambiguity, even if somewhat redundant.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request that the proposed amendment be adopted? Hearing no objection, the proposed amendment is ordered adopted.

CHIEF CLERK: I have another proposed amendment here.

PRESIDENT EGAN: There's a committee amendment, Mr. Riley, that we have not considered as yet. The Chief Clerk will read it.

CHIEF CLERK: In Section 12 --

RILEY: Did we act on the period after "legislature"? Oh, I see.

CHIEF CLERK: "Page 4, line 17, strike 'now' and substitute 'thereafter'."

RILEY: Oh yes, I beg your pardon. I overlooked that. Line 17, page 4. I move for unanimous consent of adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Riley moves unanimous consent for adoption of the proposed amendment, with the word "thereafter" in the place of the word "now". Is there objection to the adoption of the proposed committee amendment? Hearing no objection, the proposed amendment is ordered adopted. Are there amendments to the new Section 13? If not, are there amendments to Section 14? Are there amendments to Section 15? To Section 16? To Section 17?

CHIEF CLERK: I have a proposed committee amendment for Section 17.

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

CHIEF CLERK: "Line 17, page 6, change the period to a comma, and add 'and just compensation for such taking as well as for the taking of, or damage to, inferior property rights shall be made.'"

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

RILEY: Mr. President, I move its adoption.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment.

ROBERTSON: May we have it read again, please.

PRESIDENT EGAN: Will the Chief Clerk please read it again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. Riley so moves. Do you ask unanimous consent, Mr. Riley?

RILEY: I do, Mr. President.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment. Mr. Ralph Rivers.

R. RIVERS: I object, just for the moment, Mr. President. Would we not say "subordinate property rights" instead of "inferior"?

RILEY: Either would do, I would think. This is one proposed by a delegate and the Committee accepted it.

R. RIVERS: That could be referred to Style and Drafting. I will support that.

PRESIDENT EGAN: Is there objection to unanimous consent request for the adoption of the amendment? If there is no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 17? Section 18? Mr. Taylor.

TAYLOR: Seventeen, Mr. President. I have a question regarding that particular section. It says the person should not be divested of his right to use of waters, except for a superior beneficial or public use. I was thinking about matters which have not been brought up by the Committee, and I brought it up today: the federal law provides that all hot springs or springs with proven medicinal value are reserved to the federal government, so people can have the beneficial use of those springs -- those waters that do have a distinct medicinal value. And I thought, possibly, in 17, or in the section which is now 13, we could include some provisional clause along that line.

PRESIDENT EGAN: Do you have an amendment, Mr. Taylor?

TAYLOR: I have no amendment right now. I just brought it up, that we might prepare an amendment after the dinner recess.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I have an amendment to Section 16, if I may have the privilege of backing up a bit. The new Section 16.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to the new Section 16.

CHIEF CLERK: "Line 13, page 6, delete the period after the word 'law' and add 'with just compensation'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I move the adoption of the amendment. I might state that I talked to Mr. Riley and a couple of others on the Committee; I don't know whether I referred it to the Committee as a whole, but I talked to members of the Committee about it.

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

TAYLOR: Would you read it again?

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. Would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the amendment again.)

TAYLOR: I'd like to raise a point of inquiry. Do you think it would not be better if that were done only by operation of law "and with just compensation".

PRESIDENT EGAN: Mr. Ralph Rivers.

TAYLOR: Do you want a conjunction in there?

R. RIVERS: I don't care whether the "and" is in there or not. That would be for Style and Drafting. I'm not sure if "operation of law with just compensation". I think it's adequate with the "and". Mr. President and delegates, the reason I bring this up is that the very next section says "Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources."

So, where they're going to take access rights-of-way in, anyway, they're going to use eminent domain, and eminent domain is always with just compensation. The section that I'm proposing to amend immediately above that, though, speaks of "No person shall be involuntarily divested of his right to use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial or public use and then only by operation of law." And it's most pointed that you haven't made any reference to eminent domain. Now, Mr. Riley told me that he thought "operation of law" embodied the thought of eminent domain, and would probably be the type of proceedings used and that would carry just compensation. But, just to be sure, and for clarity's sake, I ask that, following the word "law" we say "with just compensation".

PRESIDENT EGAN: Mr. Riley.

RILEY: I was going to suggest, Mr. President, to insert "with just compensation" on line 12, after the word "only" then, "only with just compensation and by operation of law". Do you have any feeling on that, Mr. Rivers?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have no objection. I like it. Mr. Riley, will you carry that through?

RILEY: On line 12, after the word "only", that is next to the last word in the line, insert "with just compensation and".

PRESIDENT EGAN: Well now, just a minute. We have Mr. Ralph Rivers' amendment.

RILEY: That is Mr. Ralph Rivers' amendment.

R. RIVERS: Mr. President, I ask unanimous consent to withdraw my amendment and have Mr. Riley substitute in its stead.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent for the withdrawal of his proposed original amendment. Is there objection? Hearing no objection, and Mr. Riley offers the Committee amendment.

RILEY: I ask unanimous consent.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the Committee amendment that after the word "only" on page 6, line 12, insert "with just compensation and". Is there objection to the unanimous consent request? Mr. Gray.

GRAY: I object. I don't understand it. I don't understand compensation for the right of the use of waters, of state waters. Repeat it.

RILEY: Well, assume, Mr. Gray, that you have appropriated water for a specific purpose, and thereafter, another sought to use the same waters for a use or purpose considered to be of a superior or higher public purpose; although your appropriation would be better in time, he could institute condemnation proceedings and prevail over you by virtue of his higher public purpose to be served by that water, perhaps a public or municipal water supply.

GRAY: I withdraw my objection.

PRESIDENT EGAN: Is there objection -- Mr. Robertson.

ROBERTSON: Mr. President, I'd like to have the privilege of asking the Committee, in regard to Section 15 --

PRESIDENT EGAN: Mr. Robertson, we haven't yet acted upon this particular amendment.

ROBERTSON: I beg your pardon.

PRESIDENT EGAN: Is there objection to the unanimous consent request by Mr. Riley for the adoption of the proposed amendment? Hearing none, it is ordered adopted. Mr. Robertson.

ROBERTSON: I was wondering whether or not the Committee had given any thought to providing that there be no exclusive right of hunting on a public domain. You provide for no exclusive right or special privilege of fishery, which I agree, but, it seems to me that in this country where we have so many hunters, there ought to be a prohibition against the exclusive right of hunting on public domain.

PRESIDENT EGAN: Mr. Riley.

RILEY: Has the problem arisen, Mr. Robertson?

ROBERTSON: I can see how it might with the military.

RILEY: I think the point is well taken, but the answer is that the Committee hasn't considered it.

PRESIDENT EGAN: Are there other amendments to the new Section 17 or the new Section 18? If not, then it would be advisable, probably, that we have the recess at this time. There are also many questions going to become before the Resources Committee in

relation to this other question Mr. Marston has in hand. Mr. Hellenthal.

HELLENTHAL: I should like to hand up an amendment to Section 2, line 2, page 2, which was discussed with the Committee, and which has been held until we could go through all of the sections, and to which the Committee has no disapproval.

PRESIDENT EGAN: Now, this will still be considered the first time around, is there objection to considering the proposed amendment at this time? Does the Committee have any objection to considering this before you have your recess? Hearing no objection, will the Chief Clerk please read the proposed amendment to Section 2.

CHIEF CLERK: "Line 2, page 2, delete the period, insert a comma and add the following: 'subject to the principle that certain uses of resources shall be subordinate to superior and higher beneficial public uses as determined by the Legislature.'"

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

HELLENTHAL: I move and ask adoption of the amendment.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent for the adoption of the amendment. Is there a second?

KNIGHT: Second.

PRESIDENT EGAN: Mr. Knight seconds the motion. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: Is this to be a new sentence, or is the period to be deleted?

HELLENTHAL: Comma following the word "people".

(The Chief Clerk read the proposed amendment again.)

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

HURLEY: I guess this is in the form of a question to Mr. Hellenthal.

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

HURLEY: I notice you use the word "subject to superior and beneficial public uses". It appears to me that they're setting

up a system of beneficial private use in here. Is it the intention to limit the further setting up of priorities of beneficial uses later on?

HELLENTHAL: Frankly, I agree with you, but I took the word "public" from the commentary in Section 3, where the Committee used the words "beneficial public use". I think "beneficial use" would be preferable. Now, maybe if I give a reason for this amendment briefly; when you go over the whole article, I think an omission becomes clear. It is the clear intention of the Committee that the principle of recognizing this hierarchy of beneficial uses shall apply to all resources, every one. It applies to the replenishable resources and to the nonreplenishable resources. And that is made very, very clear. But when you check the whole article, you'll find that there's only two mentions of the principle. The first mention is made under mineral rights in Section 12; and in Section 12 you're dealing with only one type of resource; namely, mineral rights. Or rather, I stand corrected. Section 13, dealing with water rights, is the first mention of the principle, and it says there "...subject to preferences of beneficial uses, concurrent or otherwise, as prescribed by the Legislature..." Now there the principle is applied, but only to water. Then you go on to Section 16, that's the second and the last statement of the principle; and that, likewise, deals with waters alone. Now, it's clear that it was meant to apply to all resources; and Section 2 deals with all resources, so I merely feel that it's necessary, very necessary, that the principle be stated in the section which deals with all resources, and not merely confined to the sections dealing with the water resource only.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, may I ask Mr. Hellenthal whether he did or didn't take out the word "public"?

HELLENTHAL: I put it up to the Committee in the language of the amendment, and if Mr. Riley would indicate that he had no objection to the use of the word "public", I certainly would not have.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, this is not directly on the point, but we did discuss this the last thing, I believe, before coming back into session this afternoon, and the Committee had rather tentatively thought to reconsider the language -- I believe I'm right in saying this -- in Section 15, or to read it again. I shouldn't refer you to Section 15 here; I'm speaking of an earlier draft, but to read Mr. Hellenthal's proposed language against language it had earlier adopted but which does not

appear in this edition of the article, and I think perhaps it might simplify matters if we were to defer consideration of this, with Mr. Hellenthal's agreement, until this evening. Meanwhile, that would give us an opportunity to discuss it.

PRESIDENT EGAN: Would you object, Mr. Hellenthal?

HELLENTHAL: No, I'd be very happy to.

PRESIDENT EGAN: If there is no objection, we will defer action on this proposed amendment until after we have acted on Mr. Marston's proposed amendment this evening. Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee and other announcements, I move and ask unanimous consent that we recess until 7:00 p.m.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the Committee on Resources will meet in the gallery at 6:15.

PRESIDENT EGAN: The Committee on Resources will meet in the gallery at 6:15. Are there other committee announcements? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet upstairs at 6:15 in the committee room.

PRESIDENT EGAN: The Committee on Style and Drafting will meet in the committee room upstairs at 6:15. Mr. Marston.

MARSTON: The committee on this amendment that is before the house, on Native properties, will meet right here.

PRESIDENT EGAN: Right now, is that right?

MARSTON: Right now.

PRESIDENT EGAN: That committee will meet immediately upon the recess. Mr. McNealy.

MCNEALY: The Committee on Ordinances, Mr. President, will meet immediately upon recess, to set the time for the meeting.

PRESIDENT EGAN: The Committee on Ordinances will also meet right here upon recess, to decide on a time and place for meeting. Mr. Rosswog.

ROSSWOG: The Committee on Local Government will meet immediately on recess, on the upper floor.

PRESIDENT EGAN: The Committee on Local Government will meet immediately upon recess, on the third floor. Are there other committee announcements? If not, the Convention stands at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us at this time the proposed Marston amendment. Mr. Marston.

MARSTON: Mr. President, I wish to withdraw the amendment I put in, and put in a new amendment. The Secretary has it on her desk.

PRESIDENT EGAN: Mr. Marston asks unanimous consent that the original amendment that he proposed this afternoon be withdrawn at this time. Is there objection? Hearing no objection, it is so ordered. Would the Chief Clerk please read the proposed amendment that is now before us.

CHIEF CLERK: "New Section 12: 'Deeds to lots and small tracts occupied or used by Indians, Aleuts or Eskimos within the State public domain may confirm title to the appropriate persons in recognition of their individual use as prior occupants under terms and conditions prescribed by law.'"

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

MARSTON: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Marston moves that the proposed amendment be adopted. Do we have a second to the motion?

McNEES: I'll second it.

PRESIDENT EGAN: Mr. McNees seconds the motion. Mr. Smith.

SMITH: Mr. President, this matter was taken up by the Committee on Resources, and the Committee decided to take no action on the proposal.

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

McLAUGHLIN: How does the amendment read? Does it say "may be given", or "may confirm"?

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

MARSTON: May that be "may be given"? I've changed it since I gave it to you and take out the written part, take out the

"confirm title". Put it back just as it was originally printed.

PRESIDENT EGAN: You want it to read "may be given"?

MARSTON: Yes.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Deeds to lots and small tracts occupied or used by Indians, Aleuts or Eskimos within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants under terms and conditions prescribed by law."

PRESIDENT EGAN: Is there discussion of the proposed amendment? If not -- Mr. Marston.

MARSTON: This is the way I presented it to you with the map. If the original amendment didn't cover that, or covered too much, this is the way I intended to put it in there. I want to take care of George Lockwood. He's asked us; he's been three years in trouble; and this takes care of him. It is not asking too much, and if this Convention, made up as it is of a lot of free thinking, free people, I believe they will do something here that no group of men have been able to do in the United States for 85 years. Individually, they've all agreed that something should be done about the George Lockwoods over the country. Collectively, they have refused to do anything. I believe that this organization, individually and collectively, will do something about George Lockwood and people like him; and that's all this amendment does is grant a little piece of land where he lives and the cabin site where he fishes, to him, according to law.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there's no further discussion Mr. Hurley.

HURLEY: Mr. President, I'm going to have to say just one word anyway. I can't see as this amendment says a thing that the article here doesn't say the same. And I think it may be discriminatory against the men that I know that have tracts of land that have occupied at a site for sometime that don't come under these classifications. I'm sorry, but I'm going to have to vote against the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, there's a vast difference between this amendment and the one previously offered. The one previously

offered mentioned rights which might have open the whole question of aboriginal rights. It also mentioned claims to trapping areas -- areas with practically no boundaries. You might give away half of the state domain if you gave those trapping areas away. And, also, it did not specify as to what lands would be given. It implied that the state would be giving lands that they did not own -- federal lands. This amendment has clarified the whole thing. It says that the land given will be a part of the state public domain. We have a right to give it. It says nothing about rights of any kind; it does not transfer any rights, just land; and it does not give away any area. It only gives away homesteads and cabin sites -- small tracts of land, in other words -- and they are given to the Native people because of their prior use and occupancy. Now, there's a good precedent for that. In this case they do not have to file with the land office and go through the regular procedure; it's very difficult for the Native people to do that; they can't read the laws and understand as we can. They don't know about our legal procedure, or a better word is "red tape", where a white man can do that. But they have even a better claim to these cabin sites than some of the white people have. We're giving them this land, but before the federal government got it, these Natives owned it. We're just giving it back to them. The precedent for this is that now, when the land office opens up a certain area to filing for homesites, if a man has had a cabin on that land, he has a prior right for filing. He has to file like other people, but he has the prior claim. Also, when a government agency, like the Interstate Commerce Commission, or, more recently, the Civil Aeronautics Bureau, takes over some industry and says who can operate and who can't. They always have a "grandfather" clause in the act which says that a man who has been operating for years automatically gets the right to continue to operate. He doesn't have to file a claim or anything of that sort. He just gets the right. Well, if these Natives have been on this land for a long time -- and some of them have been on there for hundreds of years -- they should be allowed to continue the occupancy of that land when we start dealing it out. Now, Congress evidently is very much concerned with the rights of the Natives. They have withdrawn certain lands and are holding them in trust. This amendment has nothing to do with those lands, but I am bringing this up to show you what the intention of Congress is. They're looking out for the rights of the Natives. When they look at our constitution and see that we are looking out for the rights of these Natives, too, insofar as possible, then they will believe we are politically responsible, and they'll give more earnest consideration to this constitution and to statehood than they would otherwise.

LONDBORG: Mr. President, I would just like to say a few words concerning this new amendment. I'd like to say that I do

believe that it is going to fit the request of the people. I'd like to read, just in part, a copy of a letter of January 12 of this year, by the Village Council at Unalakleet. "The Council of Unalakleet has met and discussed the possibility of staking off small acreages of approximately five acres for the private camp sites along the natural waterways in this area to be used during the hunting and fishing seasons. At the present time nearly every family in the village has an established camp site which has been established for at least a generation or two without having official title to the land. It is the feeling of the people that they would like to continue using these camp sites in the future, without having to be concerned about someone coming in and claiming their site." I think that is their concern, just the same as it would be and is your concern and mine about our own home -- where our homes are built and where we do our work and make our livelihood. As far as the constitution, this doesn't stop the legislature from doing the same thing to other people -- the white people and other races that may come into Alaska, but it's just assuring that we're going on record that we mean some business to clear up the situation that should long since have been cleared up. Now, I can see Mr. Hurley's point that it may seem discriminatory, but let's remember that the white people that are here, or at least the majority, are here voluntarily. We've come up to Alaska, we're free to go back to where we came from, etc. Some, of course, were raised here, and Alaska is their home; but we have security along that line, also. In this case, it is the white people gradually moving in upon the Natives, and it's just a matter of assuring them some type of security for the little land that they have their houses on -- that they have their business, if you want to call a fish camp a business, etc. I don't look at this as just a measure for the Native people, it's something that I believe belongs in the resource article just as much as giving a lease to miners. Let's say that's discriminatory, that's just providing something for those people who like to mine. There might be another type of a license that shall be prescribed, and that's discriminatory just for those who want to partake in that particular thing. This is an economic measure. It's to provide an economic security for the people that are pursuing that particular type of livelihood. And when that particular economic situation involves nearly all of the Natives, and probably the Natives take in 90 or 95 per cent of it, I don't think we are discriminating in putting it here in our constitution. I feel that it has a part, it's not giving all of Alaska away. If the federal government doesn't give this land to us as public domain, then the Natives aren't going to point to the state government of Alaska. They're going to have to point their finger back to the United States and keep asking them, but at least our own hands will be clear on the issue. It's just about what we'd all like to have for ourselves;

a little assurance that when we build our homes, where we establish our business, that we're going to be able to stay there as long as we want to, unless we sell or transfer or something of that kind. It's giving a little sense of security.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, are we on the second time around?

PRESIDENT EGAN: We're still on the first time around, Mr. Sundborg, for amendment purposes.

SUNDBORG: I wonder if I could have the unanimous consent to propose an amendment to the amendment?

PRESIDENT EGAN: If there's no objection.

SUNDBORG: It has not been cleared with the Committee, because I had not seen the proposed amendment. It's not a committee amendment, but our rules say that on the first time around, an amendment should be cleared with the committee.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, in order to get on with the business, the Committee would waive any presentation to the Committee.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, you may offer your amendment to the amendment.

SUNDBORG: I offer an amendment to the amendment.

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

CHIEF CLERK: "In the Marston amendment, line 1 and 2, strike the words 'Indian, Aleuts or Eskimos' and insert 'Alaskans'."

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

HERMANN: I second it.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment to the amendment, seconded by Mrs. Hermann. Mr. Sundborg.

SUNDBORG: Mr. President, what the Marston amendment would say, if my amendment to it is adopted, is: "Deeds to lots and small tracts occupied or used by Alaskans within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants under terms and

conditions prescribed by law." I'd like to refer to the letter which Mr. George Lockwood of Unalakleet wrote to Colonel Marston. The very last paragraph of it says: "We begin to realize that we have been put aside as Natives too long. We young people would like to see our children grow up as any average American citizen and live with equal rights as white men." If we adopt the Marston amendment as it is proposed, we are setting them aside as a class forever and we are conferring upon them some property right here, or a deed, by virtue of the fact, not that they have lived upon this land or any other fact, but that they are Indians, Aleuts, and Eskimos. And I contend that that is wrong and that we should not have it in our constitution. I'm against it on the very same grounds as I would be against it if it said that tracts occupied by Seventh-Day Adventists within the state public domain, or if it said tracts occupied by Chinamen. I don't believe that's right in our constitution. We should have a constitution here which applies to all men equally, and that's why I offer my amendment to the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the 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 saying "no". The "ayes" have it and the proposed amendment to the amendment is ordered adopted. Is there other discussion relative to the proposed amendment? Mr. Victor Rivers.

V. RIVERS: I have a question of somebody that was in on part of the authorship of this. I wonder about whether the words "title may be given to" -- just what does that mean? Title may pass or be a gift, or what?

PRESIDENT EGAN: Mr. Marston.

MARSTON: It means what it says. These people own this land for a generation or more, and we white people have destroyed their title. It won't stand up in our courts; therefore, this amendment proposes to give them that ground, free of any claim, to make good the title that we destroyed for them. It means what it says, Mr. Rivers.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: This amendment was drawn by Mr. Ralph Rivers, was it not?

MARSTON: That's right.

PRESIDENT EGAN: Is there further discussion on the proposed amendment as amended? Mr. Buckalew.

BUCKALEW: In the first line, after "small tracts", I'd like to insert "and homesteads". I move its adoption.

PRESIDENT EGAN: Does the Committee waive the --

SMITH: The Committee will waive presentation.

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

KNIGHT: Second.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Buckalew.

BUCKALEW: Mr. President, I think that if we're going to start giving the lands away, we ought to be consistent about it. If a man has a claim, and has occupied a tract as large as a homestead, I think that we ought to be consistent. And if he has an interest in it, we ought to protect him, and give him a title to it if it is out of the state public domain. I see no reason to confine this section only to lots and small tracts, because you'll probably find a great class of people that have claims on homesteads, and I imagine that a homestead claim would be more beneficial to the state than a lot or a small tract, because a man could, perhaps, make a living off the homestead. I think that right ought to be protected along with the other two rights.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Through the Chair, I'd like to ask Mr. Buckalew a question.

PRESIDENT EGAN: If there's no objection, Mr. McCutcheon, you may ask the question.

McCUTCHEON: Does the term "homestead" carry with it the connotation of a specific size?

BUCKALEW: I don't think so. No.

McCUTCHEON: In other words, could it be a 1,000 acres, or 640 acres, 2,500 acres?

BUCKALEW: I don't think it could be 2,500 acres. I don't think a man could use 2,500 acres. On the other hand, it probably could be 2,500 acres.

McCUTCHEON: In the event he was raising cattle or something?

BUCKALEW: Yes, I think so.

McCUTCHEON: That could be termed as a homestead then.

BUCKALEW: It's a very broad definition. I want to get everybody included in it.

HELLENTHAL: May I ask Mr. Buckalew a question, Mr. President?

PRESIDENT EGAN: Mr. Hellenthal, you may ask your question.

HELLENTHAL: As a lawyer, can you define the word "homestead"?

BUCKALEW: As any lawyer, I could get ahold of a book that's got the definition in it. Black's Law Dictionary, or some place, but I don't have a definition right now.

HELLENTHAL: You don't know, I assume?

BUCKALEW: I don't know the legal definition. Do you know, Mr. Hellenthal?

HELLENTHAL: Yes. (Laughter)

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

McLAUGHLIN: Mr. Chairman, I refer to Mr. Buckalew's amendment. Apparently, we have attained the point now where we've substituted, for "Indians, Aleuts or Eskimos", "Alaskans", and if we add "homesteads", I don't think we need worry any more about the public domain or the remainder of the resources article, because, frankly and coldly, by the amendment "Alaskans", it is my presumption that they want it without clouding title. It might have been the desire of the Convention to secure, in substance, the Natives of Alaska, these small tracts. By amending it to "Alaskans", and particularly by amending it to "homesteads", you've killed it. Because, in substance, what you're providing is that you merely split up the public domain, and by direct gift, pass it out to those present here at the time we obtain statehood.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I haven't spoken on the Sundborg amendment because I didn't believe that it possibly --

PRESIDENT EGAN: We have Mr. Buckalew's proposed amendment to the amendment.

KILCHER: I'll get to that.

PRESIDENT EGAN: The Convention will come to order.

KILCHER: The Buckalew amendment, Mr. President, in my opinion, has as its main purpose to show up the uselessness of the article, if we follow the road that Mr. Sundborg started, to its logical conclusion. I herewith move that we rescind the action taken a minute ago on Sundborg's amendment, and give the matter serious consideration.

UNIDENTIFIED DELEGATE: Second.

PRESIDENT EGAN: Mr. Kilcher moves that the Convention rescind the action taken in voting upon

McCUTCHEON: Point of order, Mr. President. We'll have to dispose of the matter at hand before we rescind our action on the previous matter.

PRESIDENT EGAN: Mr. McCutcheon, the Chair feels you have a point. The Chair is not quite clear whether a motion to rescind can be made at any time or not. The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon, your point of order is well taken. The motion to rescind is a main motion without any privilege, and, therefore, can be introduced only when there is nothing else before the assembly. Mr. Buckalew.

BUCKALEW: Mr. President, I would ask unanimous consent, with the consent of my second, to withdraw, my "homestead" amendment.

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

KILCHER: I repeat my former motion, that we rescind action on the Sundborg amendment.

PRESIDENT EGAN: Mr. Kilcher moves that the Convention rescind its action taken on the Sundborg amendment.

EMBERG: I second.

PRESIDENT EGAN: Mr. Emberg seconded the motion.

JOHNSON: Point of order.

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

JOHNSON: Isn't the main motion still before us, subject to amendment, so that the motion to rescind would still be out of order,

wouldn't it?

PRESIDENT EGAN: The main motion, as referred to by Mr. Kilcher, is the motion that we adopted in adopting Mr. Sundborg's amendment to the amendment.

JOHNSON: But, we still have before us, as I understand it, the question of adoption of the Marston amendment.

PRESIDENT EGAN: Mr. Johnson, that's another question there that's quite complicated. The Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, your point of order was well taken. The only means by which a person could get to this particular amendment to the amendment, because of the fact that the main amendment is now pending, is by notice of reconsideration of the amendment to the amendment. But you can't reach it by a rescinding action at this time, because we do have something else before us, and that is the main proposed amendment. Mr. Kilcher.

KILCHER: Mr. President, in order to permit sufficient time to give the question due consideration, and not to lose more time on the floor, I move that we postpone this particular main question until tomorrow morning, first order of business.

PRESIDENT EGAN: Mr. Kilcher moves that we postpone this particular amendment until tomorrow morning, as the first order of business. You're not serving notice of reconsideration, are you, Mr. Kilcher?

KILCHER: Not if this motion carries.

HERMANN: A voice vote?

PRESIDENT EGAN: Yes. If there's no objection, the matter will be held over until the first order of business tomorrow morning. Mr. Hurley.

HURLEY: I'll object, I want to take care of this thing tonight and get through with it.

TAYLOR: I object.

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

KILCHER: I so move.

PRESIDENT EGAN: Mr. Kilcher moves that the matter be held over until tomorrow morning. Is there a second to the motion?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Miss Awes.

AWES: I just wanted to ask a question. Is there anything to be accomplished by this? We're still in the same position with this amendment attached to the amendment, aren't we?

PRESIDENT EGAN: That is correct, Miss Awes. Of course, it's always possible to delete and reinstitute. Mr. Barr.

BARR: Do we have a motion before us now?

PRESIDENT EGAN: At the present time we had another proposed amendment as offered by Mr. Hellenthal before us at the time we recessed. It was to be the next order of business after we had Mr. Marston's amendment before us. Mr. Hellenthal.

HELLENTHAL: Mr. President, I ask unanimous consent to withdraw the proposed amendment that was on the desk just before the recess.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent to withdraw the proposed amendment that he had before us before we recessed. Now we have several matters from the first time around, with the Rules Committee. Mr. Barr.

BARR: I have a motion. I move --

PRESIDENT EGAN: There is a motion on the floor, Mr. Barr, to hold matter of the Marston amendment over until the first order of business tomorrow morning. Mr. McCutcheon.

MCCUTCHEON: Point of order. Mr. Barr may have a motion which would take precedence over this one.

BARR: No, I have an amendment.

PRESIDENT EGAN: What is it? To this motion, Mr. Barr?

BARR: No.

PRESIDENT EGAN: The question is, "Shall this particular amendment as offered by Mr. Marston, be held over as the first order of business tomorrow morning?" The Chief Clerk will call the roll.

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

Yeas: 12 - Armstrong, Awes, Emberg, H. Fischer, Kilcher, Laws, Londborg, Nolan, Nordale, Rosswog, Sweeney, Walsh.

Nays: 38 - Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Smith, Stewart, Sundborg, Taylor, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, VanderLeest, White.)

CHIEF CLERK: 12 yeas, 38 nays, and 5 absent.

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

BARR: I have an amendment. I move that, after the word "Alaskans" the following words be added: "of Indian, Aleut or Eskimo descent". I move for the adoption of the proposed amendment.

MARSTON: Second the motion.

HERMANN: Point of order. That restores it to exactly the status it was in before it was amended.

PRESIDENT EGAN: Your point of order is well taken. It would have had to have been "Alaskans". Mr. Barr.

BARR: Mr. President, was it ruled that this doesn't change the meaning at all?

PRESIDENT EGAN: That is right, Mr. Barr.

BARR: There are lots of people in Alaska that are not Natives that are of Native descent. That's added a new group of people to it. I don't think it does change the meaning, I think it does, I mean.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I concur with Mr. Barr that the amendment brings in new material.

PRESIDENT EGAN: It brings in new material, but it means exactly the same things in the opinion of the Chair. The Chair will

rule that the amendments are in order, but the particular amendment is not in order because it means the same identical meaning.

COGHILL: Mr. President, I appeal the ruling of the Chair.

PRESIDENT EGAN: The question is, "Shall the ruling of the Chair be sustained?"

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 37 - Armstrong, Awes, Boswell, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien.

Nays: 12 - Barr, Coghill, Cooper, V. Fischer, Harris, Hurley, Kilcher, Knight, Laws, Londborg, McNealy, Marston.

Absent: 5 - Collins, R. Rivers, Robertson, VanderLeest, White.

Abstaining: 1 - Mr. President.)

CHIEF CLERK: 37 yeas, 12 nays, 5 absent and 1 abstaining.

PRESIDENT EGAN: So the ruling of the Chair has been sustained. Mr. Sundborg.

SUNDBORG: Mr. President, I have been recognized as submitting an amendment.

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

CHIEF CLERK: "Line 1, in the Marston amendment, before 'Alaskans' insert 'native-born'."

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

UNIDENTIFIED DELEGATE: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the proposed amendment be adopted. Is there objection?

HERMANN: I object.

HELLENTHAL: No objection. I would just like to be heard in connection with the amendment.

PRESIDENT EGAN: It's open for discussion. Mr. Hellenthal.

HELLENTHAL: I notice that Mr. Sundborg offered this amendment, and I believe he did it in a sincere and earnest effort to preserve the principle incorporated in Colonel Marston's resolution for which we are urging adoption. I personally feel that there was nothing poor or ill-chosen in the context of this proposal in the use of the words "Indians, Aleuts, or Eskimos", and I think that, upon reflection, that it can be shown that that phrase that was used by Mr. Lockwood in his letter was intended to convey an entirely different meaning. But, assume that it did show some discrimination. I believe that the language now proposed in the light of the debates, and in the light of the intention of this body, will be clearly understood by everybody. I think that the man on the moon reading the Alaska constitution would know that we had in mind the Indians, the Aleuts, and the Eskimos", but out of deference to them, and to them only, we used the language "native-born Alaskans". Not only deference, but respect. This whole proposal is based upon respect for those people. Now, no harm can result from this use of language. It does not defeat the principle at all. Everybody in the world knows what we mean. Everybody in this room knows what we mean. I urge strongly that you pay no heed to any loose language to the effect that this destroys the meaning of the whole thing, it's worthless now, you can't do it now, forget about it. It was a nice try, but everybody'll understand now we tried, but we failed. For technical reasons --

McCUTCHEON: Point of order, Mr. President. I'd like to know the point that Mr. Hellenthal is actually making. He seems to be digressing here to a point where he's not concerned with the addition in here of "native-born". If he's endeavoring to explain "native-born" in its reference to this particular proposal here, then I'll be glad to hear him. Otherwise, I'll raise a point of order that he's not speaking on the subject.

PRESIDENT EGAN: The Chair will hold that it is up to the delegate to determine whether he's speaking to the amendment. If he's speaking to the amendment, he is in order.

HELLENTHAL: I hope that I'm speaking to this amendment. And I urge strongly that this language, which cannot be abused -- this does not open the door to any abuses -- and this will, in a respectful way, permit aid to the native-born Alaskans to our Indians, to our Aleuts, and to our Eskimos. I urge that you

pass this. Scrutinize all further amendments, see where they come from. Now, this is the language that the Congress of the United States used -- or the former language was the language that the United States Congress used in speaking of our Indians, our Aleuts, and our Eskimos. I can see nothing wrong with it, but this new language accomplishes the same purpose, the intent is clear, it will be clear to everybody.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I certainly fail to see the force of the argument that the words "native-born Alaskans" mean just one class of people. I believe, and I think I have the right to believe, that this language will refer to my daughter, who was born in Alaska, just as much as it refers to anyone else. And as long as that meaning is intended -- and could only be intended by the use of the words, then I believe that the section becomes discriminatory and has no place in our constitution. I'm opposed to the amendment to the amendment.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, it occurs to me that this might very well be class legislation. I question very much if this Convention, or the legislature, or any other lawmaking body, can discriminate between one class of citizens and another. I also have some native-born children. I think you, Mr. President, are a native-born Alaskan. Mr. Coghill is a native-born Alaskan, Mr. Doogan, and Mrs. Wien, and several others, way down yonder now. And I don't think that we have a right to say that we will do more for one group of Alaskans than we will for another, unless we have qualified it by a need, or some particular thing that sets them apart from another, and that's exactly what I am against doing. I think this is distinctly -- by inserting the words "native-born" before Alaskans -- I think Mr. Sundborg has achieved a piece of class legislation, if he gets it through. And I'm opposed to it for that reason, and that reason only.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: May we have it read as it now appears? If so, I would like to comment on it.

PRESIDENT EGAN: Will the Chief Clerk please read the new section as it would read with the proposed amendment in it. Is that right, Mr. Hilscher?

HILSCHER: Yes.

CHIEF CLERK: "Deeds to lots and small tracts occupied or used by native-born Alaskans within the state public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law."

HILSCHER: Mr. President, I will have to speak against the amendment, because we have gone far afield from what we originally intended; and if we can somehow maneuver ourselves back into a position where we can be kindly and be fair to the people whom Colonel Marston wishes to assist, then I think we will have accomplished our purpose.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I feel I'm compelled to speak against the addition of the words "native-born". I've been through the area of Alaska quite some. I, too, was born in Alaska. I've been up and down the big rivers, I've been in the hinterlands, by airplane, by dog team, by various other means; and I have come across a great many places where there are white men -- elderly white men -- sometimes married to Native women, who have cabin sites; there is considerable and substantial construction around their cabin sites. They are in a position that they can't afford to have their property surveyed because of the cost of the airplane hired to get the surveyors out there so that they can file on them in a standard ordinary fashion, that the people close to settlements can. In adding "native-born" it excludes these people who may have been on these properties for 45, maybe 50 years; and, consequently, we're setting up, as Mrs. Hermann says, a class legislation. In this particular amendment, while I oppose the whole thing in principle, including the amendment to the amendment, I still feel that if we must adopt some such thing of this nature, where we do give some prior right to people who have trap sites or fish sites, or whatever other kind of a site it may be, and have used them over the decades, and have not obtained any sort of a title to them, that they should be protected, whether they are white or Indian or Aleut or anything else. Their rights should be protected just as well as some specific class, and I think by setting this particular thing out here as "native-born" that we're actually legislating against a certain class of people.

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

SWEENEY: May we have a one-minute recess, please?

PRESIDENT EGAN: If there's no objection, the Convention will have a one-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

KILCHER: Mr. President, I have an amendment.

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

CHIEF CLERK: This is from Mr. Kilcher. "Insert 'continuously' after 'tracts' and insert 'or their ancestors before the year 1900' after 'Alaskans'." (Laughter)

PRESIDENT EGAN: The Convention will come to order.

KILCHER: Mr. President, may I read the amendment after --

PRESIDENT EGAN: Who is the author?

CHIEF CLERK: Mr. Kilcher.

PRESIDENT EGAN: Mr. Kilcher, you may read the proposed amendment.

KILCHER: "Deeds to lots and small tracts continuously occupied for use by Alaskans or their ancestors before the year 1900 within the state public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under the terms and conditions prescribed by law." I move the adoption to this amendment to the proposed amendment.

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

UNIDENTIFIED DELEGATE: May we have it read again?

PRESIDENT EGAN: Would the Chief Clerk please read it as she has it on her desk.

CHIEF CLERK: "Deeds to lots and small tracts continuously occupied for use by Alaskans or their ancestors before the year 1900 within the state public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law."

PRESIDENT EGAN: Was there a second to Mr. Kilcher's motion?

BARR: I'll second it.

PRESIDENT EGAN: Mr. Barr seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, I think that if we adopt this amendment, we will fulfill Colonel Marston's original intent, and we will do it in a way that is not discriminating against any class or group of people, other than setting a historic date as we have done in the bill of rights, if I'm not mistaken, by having the year 1924 mentioned in a certain relation. If this amendment should pass, all Alaskans who have used, continuously, a certain tract of land for some purpose mentioned in here, or if their ancestors have used it before the year 1900, they will be in the same class, be they Aleuts, Eskimos, Indians, of Alaskan or non-Alaskan origin; be they Russians, Swedes or other people.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, again I must rise to oppose an amendment. For this very amendment seeks to differentiate very substantially among the various Native peoples and other peoples of Alaska who live out of the periphery of civilization, you might say. Because, on the great rivers of the Yukon and the Kuskokwim, and others, the Eskimos, Indians, or Aleuts have not used fish wheel sites continuously since 1900, because the fish wheel sites are constantly being moved down and up the river. So are fish camp sites. Things that you are seeking to protect you are now dealing out by this very amendment. Consequently, I can see that the amendment is even making this particular section here even worse, by putting this continuous usage clause in it.

KILCHER: Mr. President, I concede the point, and I ask unanimous consent to withdraw the amendment.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent that the proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered. Miss Awes.

AWES: Would it be proper to make a motion to suspend the rules, so that we can consider the motion to rescind our previous action, at this time? If it's proper, I so move.

PRESIDENT EGAN: Miss Awes, the motion to suspend the rules is in order at any time. If the rules are suspended, of course, you can do most anything on a suspension of the rules that you wish to accomplish. Do you make such a motion?

AWES: I so move.

BUCKALEW: I second.

PRESIDENT EGAN: Miss Awes moves that the rules be suspended, and Mr. Buckalew seconds the motion; and that the Convention rescind its action taken in voting on the amendment to the amendment that was offered by Mr. Sundborg and carried. The Chief Clerk will call the roll. Now, this will take 37 votes, is that not true? I won't put the question until you all understand. If you vote to suspend the rules and rescind the action, then we are back where we started when Mr. Marston offered his amendment this evening, except that we did include -- was there any other amendment to that amendment adopted?

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: If you vote to suspend the rules and rescind the action, we will be back to our original starting point of this evening.

METCALF: Mr. President, you mean a "yes" vote will put us back where we started from, and a "no" vote will leave us just where we are, right?

PRESIDENT EGAN: That is correct. The question is, "Shall the rules be suspended and the action rescinded on the amendment of Mr. Sundborg which we adopted earlier this evening?"

MARSTON: Mr. President, can we talk it over?

PRESIDENT EGAN: A motion to suspend the rules is not debatable.

MARSTON: The reason I want to do it is because I think your voice vote was wrong.

PRESIDENT EGAN: It seemed to the Chair it was an overwhelming majority, but that is in the past.

McCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and -- "

V. RIVERS: Just, "Shall the rules be suspended now?", isn't it?

PRESIDENT EGAN: Miss Awes indicated that she wanted to rescind the action at the same time.

AWES: No, I didn't mean -- I didn't object to doing that, but I didn't mean to include that in my motion.

PRESIDENT EGAN: Of course, Mr. Victor Rivers, if you suspended the rules, it would be out of order to include the rescinding

action, inasmuch as it would take more to suspend the rules than it would to carry the rescinding action. Is there an objection to including rescinding action in this motion? A "yes" vote would bring us, then, back to the starting point. A "no" vote would keep us just where we are. Mr. Marston.

MARSTON: May we have a roll call?

PRESIDENT EGAN: This will have to be a roll call, Mr. Marston.

TAYLOR: That does require a two-thirds vote?

PRESIDENT EGAN: That's right, it will require 37 votes.

H. FISCHER: Would it require that amount of votes to rescind the action?

PRESIDENT EGAN: It would take 28 votes to rescind the action, but we could never get to that point unless we suspend the rules.

SWEENEY: Are we voting on both of them now? Two subjects -- to suspend the rules, and at the same time to rescind the action?

PRESIDENT EGAN: The reason why we should include this rescinding action at this time is that to rescind the action while this amendment is before us would also take a two-thirds majority, because it is not in line with the rules. So, it should be considered at the same time as the suspension of the rules. The question is, "Shall the rules be suspended for the purpose stated?" The Chief Clerk will call the roll.

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

Yeas: 26 - Armstrong, Awes, Barr, Coghill, Cooper, Cross, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Peratrovich, Rosswog, Smith, Stewart.

Nays: 24 - Boswell, Buckalew, Davis, Doogan, Gray, Hermann, Johnson, King, Laws, McCutcheon, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, VanderLeest, White.)

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

PRESIDENT EGAN: So the "nays" have it and the proposed motion has failed adoption. Mr. Johnson.

JOHNSON: Mr. President, I apologize for attempting to vote for Mr. Hinckel. I'm sorry.

PRESIDENT EGAN: Are there other amendments? Mr. Coghill.

COGHILL: I move and ask unanimous consent for a five-minute recess.

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

RECESS

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

ROSSWOG: Mr. Chairman, I would like to move and ask unanimous consent that we refer to the introduction of committee proposals.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the Convention revert to the introduction of committee proposals at this time, if there is no objection.

ROSSWOG: Your Local Government Committee would like to submit Proposal No. 6/a as a substitute for its Proposal No. 6, at this time.

PRESIDENT EGAN: Will the Chief Clerk please read Committee Proposal No. 6/a for the first time?

CHIEF CLERK: "Committee Proposal No. 6/a, introduced by the Committee on Local Government, entitled 'Local Government'."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 10/a has compared the same with the original and finds it correctly engrossed. The enrolled copies are ready and will be placed on the delegates' desks in a few minutes. I move the adoption of the report and ask unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney moves the adoption of the report by the Committee on Engrossment and Enrollment and asks unanimous consent. The report is referred to the Committee on Style and Drafting. Are there other committee reports or proposals?

McCUTCHEON: Question.

PRESIDENT EGAN: We have before us the amendment to Committee Proposal No. 8/a. Is there further discussion? Mr. Sundborg.

SUNDBORG: Mr. President, I'd like to speak on this. It was my amendment substituting the word "Alaskans" for "Indians, Aleuts, and Eskimos" which has been said by many here, during frequent recesses, to have killed this proposal. My thought is that it was dead before that amendment was offered. I certainly wouldn't have voted for it if it had come on the floor in the shape it was in, because I'm not going to vote for anything here that sets apart and aside a class of people on account of race. As I said, I wouldn't have been for it if it had said we give it to Presbyterians, or that we give it to Republicans. We should, in all of our constitution, and I hope that our legislature will observe the same thing throughout our history as a state -- legislate for all of the people, and legislate for them on an equal basis. Now, I contend that the amendment as it is before us is completely workable. Look what it says, and I contend that it gets at the very problem and takes care of the very people that Colonel Marston had in mind when he introduced it; and it does it without setting apart any class on account of their race. It says, "Deeds to lots and small tracts occupied or used by Alaskans within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law." Now, future legislatures can set up the procedures under which this will be done. And they can do it, I am certain, to take care of the people for whom and on whose behalf this amendment by Mr. Marston was offered. It was not with the purpose of killing the amendment that I offered my amendment to the amendment. I would have voted for it before if it had not been amended by saying "Alaskans" instead of a certain class, based upon their race. But I'm going to vote for it now, and I urge that all do so. It was in good faith that I offered my amendment, and it is in good faith now that I urge the adoption of Colonel Marston's amendment as amended.

MARSTON: Mr. President, may we have it read again?

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as it appears.

CHIEF CLERK: "Deeds to lots and small tracts occupied or used by Alaskans within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law."

PRESIDENT EGAN: The question is -- Mr. Hellenenthal.

HELLENTHAL: Mr. President, I support Mr. Sundborg's remarks wholeheartedly, and urge the adoption of this amendment.

PRESIDENT EGAN: Mr. Fischer.

FISCHER: Mr. President, I'd like to ask Mr. Sundborg a question.

PRESIDENT EGAN: If there's no objection, Mr. Fischer.

FISCHER: And that is, does the last clause "under terms and conditions prescribed by law" refer to deeds, or can it also refer to occupancy and use? In other words, can the legislature prescribe the conditions of occupancy?

SUNDBORG: Of course, you realize -- and I think everyone here realizes -- I'm not an expert in this field, but as I read it, under terms and conditions prescribed by law the legislature could set up the terms of the deeds. That is, they could say how many acres might be included within them; they could set up the conditions of occupancy; for instance, it had said that the person to whom the grant is made must have, or his ancestors must have occupied the piece of ground since some date in the past. And I believe that if the legislature desired to do so -- although I would not want to have them do so -- they could say that they should be granted only to Indians, Aleuts, or Eskimos. Those would be among terms and conditions which might be prescribed by law, but they wouldn't be written into our constitution.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, may I ask Mr. Sundborg a question? When does a person become an Alaskan? Say, one year, like Mr. Marston would have, or just when does he become an Alaskan?

SUNDBORG: Well, I believe, for the purpose of construing the constitution, a person would become an Alaskan when he became, probably, a qualified elector.

METCALF: A year?

SUNDBORG: Yes.

PRESIDENT EGAN: Mr. Marston, you may have the last say, but Mr. Lee has been trying to get the floor. You have a right to close the discussion. Mr. Davis.

DAVIS: I have one or two questions I'd like to raise, Mr. President. I am disturbed by the language as it now stands. Mr. Sundborg may be right, but I'm afraid that he may not; that the legislature can prescribe something more than the conditions of giving deeds. Now, as the language now stands, we have left the thing open for giving of deeds to anybody who occupies the

property, and we haven't set forth any date before which they must have occupied the property. It seems to me that, since this is obviously, if it's anything at all, an enabling act to the legislature to do something, and we ought to put a cutoff date in there as to when that occupancy must have begun. Another thing in line 2, it says "may be given". Now, I doubt seriously that the legislature has any right to give away the public domain or any part of it. But I think what people are trying to do here is to transfer property in which somebody has a prior right. It seems to me the language could be turned around some way to provide that deeds should be given in recognition of those prior rights, rather than saying that we're giving away the property. As the thing now stands, I'm going to have to vote against it. I think that I could very well vote for it if it were changed, somewhat.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. McNees.

MCNEES: Mr. President, I'm afraid this opens up the subject to a much broader point of view than so many of us realize. Wouldn't this give a prior claim, say, to a man who for many years -- or the company who for many years has put his boat out on the banks of a river on a certain spot? Would it not also take into consideration the man and his family, perhaps, who have year after year after year gone out and pitched their tent on the bank of a river in a certain spot, irrespective as to who he was? There are so many ramifications to this in its present amended form that were not intended by the original amendment submitted by Mr. Marston, that I find myself now in a position where I cannot vote for the amendment.

PRESIDENT EGAN: Mr. Marston, if you wish to close the argument --

MARSTON: If this amendment by Mr. Sundborg will give George Lockwood relief in his piece of property that he's entitled to, I'll vote for it happily, and rather have it go this way. I was hoping this body would take the pleasure and the honor and the great privilege of making a decision in favor of those people. If it has to go through the legislature, I'll take it that way. But I wanted you to get it through here, and I'll vote for it.

BUCKALEW: Question.

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

WHITE: I'd like to abstain from voting, because I've been absent during discussion of the proposed amendment.

PRESIDENT EGAN: Mr. White asks to abstain from voting. Mr. White, it is the same amendment -- or it is an amendment that was offered by Mr. Marston at the time we convened this evening. Were you here before?

WHITE: Mr. President, I haven't studied the amendment.

PRESIDENT EGAN: The Chief Clerk will call the roll. Mr. White will abstain from voting.

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

Yeas: 16 - Barr, Coghill, Cross, Emberg, H. Fischer, Hellenthal, Hilscher, Hinckel, Kilcher, Knight, McLaughlin, McNealy, Marston, Nolan, Sundborg, Taylor.

Nays: 34 - Armstrong, Awes, Boswell, Buckalew, Cooper, Davis, Doogan, V. Fischer, Gray, Harris, Hermann, Hurley, Johnson, King, Laws, Lee, Londborg, McCutcheon, McNees, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 4 - Collins, R. Rivers, Robertson, VanderLeest.

Abstaining: 1 - White.)

LONDBORG: Mr. President, I would like to change my vote to "no".

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

CHIEF CLERK: 16 yeas, 34 nays, 4 absent and 1 abstaining.

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

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

PRESIDENT EGAN: If there is no objection, Mr. White, you may have the floor on the question of personal privilege. (Mr. White then spoke under the personal privilege of the floor.)

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: May I speak on a point of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Armstrong, you may speak on a point of personal privilege.

(Mr. Armstrong then spoke on a point of personal privilege.)

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I would like to speak on a matter of privilege if I may.

PRESIDENT EGAN: Mrs. Hermann, you may have the floor.

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

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I speak on a point of personal privilege?

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

(Mr. Londborg then spoke on a matter of personal privilege.)

PRESIDENT EGAN: Mr. Riley, the Rules Committee had at least two sections upon which they indicated they would have amendments to offer. Is that correct, Mr. Riley?

RILEY: The Resources Committee?

PRESIDENT EGAN: The Resources Committee, yes.

RILEY: They're on the Chief Clerk's desk.

PRESIDENT EGAN: Will the Chief Clerk please read the first amendment as it would be offered by the Resources Committee.

CHIEF CLERK: "Page 1, Section 2, strike the marginal title and substitute 'General Authority'."

RILEY: I ask unanimous consent for its adoption, Mr. President.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, it is so ordered. Will the Chief Clerk read the next amendment, please.

CHIEF CLERK: "Page 5, Section 12, Line 4, insert 'either' before 'the'."

PRESIDENT EGAN: Mr. Riley.

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

PRESIDENT EGAN: That would be at the end of the line. Mr. Riley asks unanimous consent that the proposed amendment be adopted. Is there objection? Hearing no objection, it is so ordered. Are there other amendments from the Resources Committee?

CHIEF CLERK: "Page 5, line 14, strike 'nonmetallic'."

PRESIDENT EGAN: Mr. Riley.

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

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

CHIEF CLERK: "Page 3, Section 8, line 13, strike lines 13 and 14, and insert in lieu thereof: 'selection of lands granted to the State by the United States and for the administration of the State public domain.'"

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

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Would the Chief Clerk please read the amendment once more.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of the amendment? If not, the proposed amendment is ordered adopted.

CHIEF CLERK: "Page 5, Section 13, line 20, after the word 'use' insert a comma, and add 'except mineral and medicinal waters'."

PRESIDENT EGAN: Mr. Riley.

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

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

COOPER: I object.

PRESIDENT EGAN: Objection is heard by Mr. Cooper.

COOPER: Just for a point of clarification -- "except mineral waters" -- what is that?

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Cooper, this goes to the question raised by Mr. Taylor earlier today. He drew attention to the fact that the federal government reserves the disposition of hot springs. And some of us have talked with some of the federal land office people since that time, in an effort to arrive at language as nearly like the federal reservation as possible, and this is what we have offered.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I'll have to ask further. The term "mineral waters" -- anyone living in this area certainly is well aware of the fact that there is plenty of mineral in this water; and, therefore, there could be a question at a future date.

PRESIDENT EGAN: Mr. Riley, do you have an explanation? Do you so move, Mr. Riley, for the adoption of the amendment?

RILEY: I have, yes.

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

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is open for discussion. The question is, "Shall the proposed amendment, as offered by the Committee on Resources, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments?

CHIEF CLERK: No more committee amendments.

PRESIDENT EGAN: If not, then we will start with the second time around on the amending process.

KILCHER: Mr. President.

PRESIDENT EGAN: Mr. Kilcher.

KILCHLER: Will this be the second reading?

PRESIDENT EGAN: Does the Committee desire a recess at this time, for the purpose of hearing any proposed amendments? Mr. Smith.

SMITH: I would like to ask if there are amendments to be offered?

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PRESIDENT EGAN: Are there proposed amendments?

KILCHER: I had intended to ask a question of Mr. Riley on Section 14.

PRESIDENT EGAN: There are amendments. The Chair notes that at least one party has an amendment. Are there other amendments? Mr. Smith.

SMITH: I would like to ask for a recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess, subject to the call of the Chair.

RECESS

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

SMITH: Mr. President, the Committee has no amendments to offer at this time.

PRESIDENT EGAN: The Committee has no amendments to offer at this time. Are there amendments to be proposed to the preamble of the proposal? Are there amendments to Section 1? Section 2? Mr. Barr.

BARR: Mr. President, I have an amendment to Section 2, page 1, lines 15 and 16. On line 15, strike the last word, "provision". On line 16 strike the words "of applicable acts of Congress, including". I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Barr moves the adoption of the amendment.

BOSWELL: Objection.

PRESIDENT EGAN: Objection is heard.

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Barr.

BARR: Mr. President, the stricken material says that we will utilize and develop our natural resources in accordance with provisions of applicable acts of Congress. Now, that means we're giving up our sovereign rights as a state. When we become a state, and thereafter, we will utilize and develop our lands according to the way Congress tells us to do it. Now, this has nothing to do with the enabling act. On the next line it says we'll do it according to the act admitting Alaska to the Union. I'll read this the way it would appear with my amendment.
"The

State of Alaska shall provide for the utilization, conservation, and development of all the natural resources belonging to the State in accordance with the Act admitting Alaska to the Union." That is still in there, but it's a known fact that once a territory becomes a state, they have full control of their lands, and can do as they see fit. I believe we've been a ward of the federal government too long to put any language like this in here.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I wouldn't argue with Mr. Barr if he were to suggest striking the other reference to an act of Congress; if, instead, he were to suggest that it read "in accordance with provisions of applicable Acts of Congress, this constitution..." etc. Certainly, once we have statehood, once we're in the sovereign capacity that Mr. Barr refers to, there will be fewer acts of Congress which are applicable up here, but there may still be some. I'm not positive, but I think there is ground to believe that our University grant may still be circumscribed by the provisions which were imposed when the 1929 act was passed. It's possible, there may be others, and that's the reason that this language was included. I should say that the Committee would not object strenuously to the deletion of the other mention of "Act of Congress".

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe that the language should be retained as it is. The reading of it says "including land and waters belonging to the State". Well, that is fine, except that in the event that the state wanted to develop some power along one of these rivers, they would have to develop it in conformity with the federal acts, the federal regulations promulgated by the Federal Water Power Commission; and any development, or any work on the stream that is a major tributary of a navigable river has to be approved by the Federal Water Power Commission. So, I think we would necessarily have to leave the wording in this place that it is in. I think there are other like circumstances, Mr. President, in which things would have to be in conformity with other federal acts.

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

BOSWELL: Mr. President, our purpose in putting this language where it was right here in front of the resources article was to call the attention to any congressman or senator that, if there was any place in this article where we have digressed from the proposed enabling act, that if they still held that same language in the future enabling acts, that we were going to abide

by them. I think they have a very important place here, and I would hate very much to see them come out.

McCUTCHEON: Question.

PRESIDENT EGAN: Is there further discussion? If not, Mr. Barr, you may close the argument.

BARR: I understand that Mr. Boswell is talking about the enabling act, and my amendment had nothing to do with that. That's still retained; and Mr. Riley said that Congress may provide certain restrictions or regulations which we would have to comply with in order to participate in some federal program. That's true, we're doing that right now; they supply matching funds. They supply matching funds for an airport program, and we have legislation that enables us to participate, and says that we will comply with their regulations. But we didn't have to do that if we didn't want to. Under this language we will always have to.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "noes" have it and the proposed amendment has failed adoption. Are there other amendments to Section 2? Mr. Hurley.

HURLEY: Amendments have to be written, don't they?

CHIEF CLERK: No.

PRESIDENT EGAN: If it is just a brief amendment, you can see what the Committee says.

HURLEY: It's a matter of striking. I discussed this with the Committee, and they didn't agree with me. (Laughter)

SMITH: Mr. President, I couldn't hear what Mr. Hurley said.

PRESIDENT EGAN: Mr. Hurley said he had discussed this proposed amendment with the Committee, and the Committee did not agree with him. Mr. Hurley, you may read your proposed amendment.

HURLEY: On line 15, page 1, after the word "State" strike the comma, strike the balance of lines 15, 16, 17, and line 1 on page 2, through and including the comma after the word "State".

PRESIDENT EGAN: How would the section read then?

HURLEY: "The State of Alaska shall provide for the utilization, conservation and development of all of the natural resources,

including land and waters belonging to the State for the maximum benefit of its people."

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

HURLEY: I move the adoption of the amendment.

MARSTON: I second that motion.

PRESIDENT EGAN: Mr. Hurley moves that the amendment be adopted, and Mr. Marston seconds the motion.

BOSWELL: Point of order.

PRESIDENT EGAN: Your point of order.

BOSWELL: That's the same motion we just voted down, that Mr. Barr submitted.

PRESIDENT EGAN: It includes a lot more, though, Mr. Boswell. The Chair will agree that it includes that amendment, but it includes much more it would seem. Mr. Hurley.

HURLEY: Mr. President, speaking on the proposed amendment, it certainly wasn't my intent to confuse the issue by putting the same thing back again. In fact, I would have probably voted against Mr. Barr's amendment because it, in my opinion, did not go far enough. My only purpose here is that it occurs to me that any federal act, including the act admitting Alaska to the union, must necessarily be complied with by the Territory, if it's applicable, and if the state desires to make available its benefits. The wording in this constitution seems to me to be useless, because that's what we're writing the constitution for. Insofar as the laws of the state are concerned, insofar as they are within the delegation of powers in this constitution, the natural resources will be developed accordingly. I realize that there was an intent on the part of the Committee, and they told me so, to point out to any Congressman that might be reading this that they intended to abide by any rules that they might set up for admission of Alaska to the Union, but I think that situation is evident in the wording of the proposal in general, where it provides for two different types of handling the resources as expected to be proposed by the federal law. I'm sorry to take the time of the Convention because I feel that it is simply cutting down on the length of the constitution, that including certain things here might be held to limit other things and it is not necessary to include these items in order to make it effective.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I don't believe I was present, I'm not sure, when Mr. Hurley appeared before the Committee, but there was another primary consideration in the minds of the Committee in using this language, and particularly in calling attention to the enabling act, and that is that one of the most controversial features that has been before the Committee since it first met was this floating provision, this floating situation as concerned Congressional thinking finally, in the enabling act as to the reservation to the state of minerals; and this is simply to call attention, this is simply to be hedged against whichever way Congressional thinking goes. Granted, we would be obliged to follow it whichever way, whether the state was enabled to give full patent to all minerals or whether the state was obliged to retain mineral reservations, but our thinking was simply to call attention to the fact that we were covered either way. Now, because it bears slightly on the same point, I would like to correct a suggestion left by Mr. Barr a moment ago when he said that I had suggested that the federal government might provide, in the future, some program of interest to us. Quite to the contrary; I'm speaking about the past and not the future. There may be measures, there are some measures. Mr. Taylor called attention to one: the Federal Power Commission provision which we could not escape. But I do not take particular issue with striking the last portion of this as concerns the Congressional provisions. However, I think that the retention of all of it strengthens it.

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

BARR: I'm going to support this amendment because without these words that are stricken by the amendment, it merely states now how the State of Alaska shall provide for the development of the resources. It makes no reference to Congress, or anything of the sort. I think it's simpler and more to the point. However, if we do say that we'll do it according to Congressional acts, we will continue any thing that Congress has put into force up to this point, such as land withdrawals, fish traps, or anything of that sort. We're still under the thumb of Congress.

PRESIDENT EGAN: Is there further discussion?

METCALF: Question.

TAYLOR: Question.

PRESIDENT EGAN: If not, the question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The Chief Clerk will call the roll.

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

Yeas: 12 - Barr, Hurley, Kilcher, Knight, Laws, Londborg, McNees, Marston, Nolan, Peratrovich, Sweeney, White.

Nays: 39 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Lee, McCutcheon, McLaughlin, McNealy, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, Walsh, Wien, Mr. President.

Absent: 4 - Collins, R. Rivers, Robertson, VanderLeest.)

CHIEF CLERK: 12 yeas, 39 nays and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 2? If not, are there amendments to Section 3? To Section 4? Mr. Coghill.

COGHILL: I'd like to call the attention to the Convention that I believe that the clock has stopped again. I have approximately 9:30, and with the bus coming in, what would be the pleasure of the Convention as to recess?

PRESIDENT EGAN: What is the pleasure of the Convention as to recess or adjourning?

UNIDENTIFIED DELEGATE: Another ten minutes.

PRESIDENT EGAN: Are there other amendments to Section 4? Section 5? To Section 6? Are there other amendments to Section 7? Section 8? Section 9? Section 10? Section 11? Are there amendments to Section 12? Are there amendments to Section 13? 14? 15? Are there amendments to Section 16? Section 17? Section 18? Are there any other amendments to Section -- Mr. Londborg.

LONDBORG: Mr. President, I would like to give notice of my intention to ask for reconsideration of my vote on the Marston amendment.

PRESIDENT EGAN: Mr. Londborg at this time would like to serve notice of his intention to reconsider his vote on the Marston amendment. Mr. McCutcheon.

McCUTCHEON: I direct a question to Mr. Londborg, Mr. President. Do you have any objection to voting on the matter at this time, so that we can clear this and then send it through to the committee?

LONDBORG: Mr. President and Mr. McCutcheon, my reason for using this prerogative is to give a little overnight thought on the matter.

PRESIDENT EGAN: If you wish to reconsider now, that's fine. Mr. Londborg serves notice that he will reconsider his vote on the amendment. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until 9:00 tomorrow morning.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand adjourned until 9:00 tomorrow morning. Are there committee announcements? Are there any committee announcements to be made at this time? If not, if there is no objection, unanimous consent has been asked, and the Convention stands adjourned until 9:00 a.m. tomorrow.