

Senate Memorials

SENATE MEMORIAL NO. 1.

TO THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES SENATE, THE HOUSE OF REPRESENTATIVES, AND THE DELEGATE FROM ALASKA:

Your Memorialist, the Territorial Senate of the Territory of Alaska, in Ninth Session assembled, hereby most earnestly and respectfully represents:

1. That by the Act of Congress of August 24, 1912, entitled "An Act to create a Legislative Assembly in the Territory of Alaska, to confer legislative powers thereon, and for other purposes", 37 Stat. L. 512, the people of Alaska were organized into a Territory and given power to create an American Territorial Form of Government therein, based on the principles of the Constitution of the United States, after the type heretofore organized in the Territories of the West, which gave their people a full territorial form of government and fitted such Territories to later form and adopt State constitutions and be admitted as States into the Union.

That it was the purpose of Congress in passing the Organic Act of August 24, 1912, aforesaid, to give the people of Alaska an equal opportunity with other American Territories.

2. That notwithstanding the power and authority thus given to the people of Alaska, their Territorial Legislature, from session to session has given the power of government and the control of the Territorial affairs into the hands of the Governor and other Federal officials, whereby the present Territorial Government is not in any sense responsible to the people of Alaska, and has become and now is a Federal Bureaucratic Government, with the appointed Governor, the Secretary of the Territory, other Federal officials, and Territorial appointive boards, filled by appointment by these Federal officials, in full charge, while the citizens, electors and taxpayers of Alaska are practically excluded from any participation in the management of their Territorial affairs.

3. That many patriotic citizens and members of the Territorial Legislature have protested, from session to session, against the growth of Federal Bureaucratic organization in

our Territorial Government, whereby slowly but surely the entire power and control has passed, and is now lodged, in the said Federal officials, who contest efforts on the part of our members or citizens to regain any part of it for the public good.

4. That to aid the efforts of citizens, electors and taxpayers of Alaska, to stop the Federal appointive officials in holding and extending their autocratic and unlawful control over our own Territorial Government, certain citizens and taxpayers in Alaska, some two years ago, immediately after the adjournment of the Legislature of that session, brought suits in the United States District Court of Alaska, First Division, against the Territorial Treasurer, who is also appointed by the Governor of Alaska, to restrain him from paying out Territorial funds to the Secretary of the Territory and to other Federal officials and employees, in violation of specific laws of the United States, and such proceedings were had in such suits that the Court declared such payments were illegal and void, and that such Federal officials holding said Territorial offices were acting therein in violation of the said United States statutes.

5. That Congress thereafter passed an Act entitled "An Act to authorize the payment of certain salaries or compensation to Federal officials and employees by the Treasurer of the Territory of Alaska" which was approved by the President of the United States on February 18, 1929; whereby the very salaries and compensations so held by the said court to be invalid and void, were validated and ordered to be paid, but, well recognizing the evil in said matters, the said Act of Congress concluded with a warning to the said Federal officials in Alaska, and to the Territorial Legislature, not to continue said evil and unlawful practices; that reference is hereby made to said Act of Congress, and reference is also made to Senate Report No. 1048, 70th Congress, First Session, by Senator Pittman, and the House Report No. 2172, 70th Congress, Second Session, by Mr. Dowell, being the respective reports of the Senate and House on S. 4257; and you are respectfully referred also to the proceedings in the House of Representatives, found in the Congressional Record of February 13, 1929, on the passage by that body of S. 4257 where the evils mentioned are discussed.

6. That seeking to cure the defects in the laws of Alaska whereby the said Federal officials dominate our Territorial Government and to provide a lawful method of taking over

and performing the Territorial powers and offices so declared to be illegally held and performed by said Federal officials, by the court in the suits mentioned, early in the present session of the Territorial Legislature, Senate Bill No. 35 was introduced in that body; it was regularly referred to the committee, reported, considered, amended and finally passed by the Senate by a majority vote of five Senators voting for, and three Senators voting against, its passage. It was passed in strict conformity with the provisions of the Organic Act of Alaska and duly forwarded to the Territorial House of Representatives for consideration. A full, true and correct copy of said Senate Bill No. 35, as it was finally amended and forwarded to the Territorial House of Representatives for its action, will be made a part of this Memorial by attachment.

7. That said Senate Bill No. 35 was received by the Territorial House of Representatives in regular session, and referred to its House Committee on Territorial Institutions, which said Committee duly considered the said bill, and on April 11th, 1929, presented the report on the bill to the House, that a full, true and correct report as found printed in the Journal of the House of April 11th, 1929, will be made a part of this Memorial by attachment.

8. That the said House report made by its committee on Territorial Institutions recommended, (and the House subsequently adopted such recommendation) that all those provisions in Senate Bill No. 35, attempting to create a Territorial Board of Control be stricken out of said bill, and specially all of Sections 21, 22, 23, 24, 25, 26, 27 and 28, which sections created a Territorial Board of Control in the Territorial Government of Alaska, to consist of the Governor, the Territorial Treasurer and the Territorial Auditor, the two last named officials to be elected by the people of Alaska; it was provided in said Sections 21 to 28 stricken from said Senate Bill No. 35, that this Board of Control, with the Governor at its head should take over and perform a wide range of Territorial duties which, without said Sections 21 to 28, both inclusive, cannot now be legally performed by any Federal or Territorial official or board, for want of any legally constituted board or officials authorized by law to perform them; that said Senate Bill No. 35 is the only bill pending before the Legislature attempting to provide a lawful way to cure the defects now existing in the laws of Alaska which will permit the Territorial Banking Board, the Territorial Board of Road Commissioners, and other Territorial Boards to legally perform the duties heretofore imposed on said Boards on account of the

well known and judicially determined disqualification of the Secretary of the Territory, and other Federal officials, to lawfully act as officials on said Territorial Boards, in violation of Section 11 of the Organic Act of Alaska, all of which is well known to the Governor of Alaska, to the Legislature and the other Federal officials heretofore acting on said Territorial Boards.

9. That if the amendments contained in the House Committee report on Senate Bill No. 35, which report has been adopted by the House and is there supported by a majority equal, in proportion to the Senate opposition, should prevail and the bill be passed in that form, the autocratic and uncontrolled power of the appointive Governor, would be newly and widely extended over the Government of Alaska, and its people, by the adoption of item 29 in said report as follows:

Section 21. The Commissioner of Education, Territorial Mine Inspector, Highway Engineer, Trustees of the Alaska Agricultural College and School of Mines, Commissioner of Health, and Superintendent of the Pioneers' Home shall hereafter be appointed by the Governor, subject to confirmation by a majority of all the members of the Senate and House of Representatives of the Legislature in joint session assembled, etc.

10. That the Governor of Alaska has been active in opposition to attempts to secure to the people of Alaska that voice in their local Government to which they are entitled under the Organic Act of Alaska; that well knowing that a bill having the general purpose contained in Sections 21 to 28 inclusive, of Senate Bill No. 35, would be introduced in the Legislature of 1927, as it had been in previous sessions, he publicly but discreetly warned the attending members of the Legislature against it in his message to that body before the bill was introduced; a copy of his message of 1927 with the discreet warning will be made a part of this Memorial by attachment. That by methods heretofore mentioned and by the Governor's powerful opposition, the bill was defeated in the Session of 1927; that on the adjournment of that Legislature and the commencement of the suits in the District Court to restrain the Territorial Treasurer from paying out the Territorial funds to the Secretary of the Territory in violation of Section 11 of the Organic Act of Alaska, the Governor officiously pushed his way into that suit, as Governor of Alaska, in connection with the Secretary of the Territory and employed

attorneys and made himself a party to the suit by intervening therein; but notwithstanding his activity the court held the Secretary could not hold both a Federal and Territorial office at the same time, and draw salaries from both the United States and the Territory. Your Memorialist will attach a full, true, and correct copy of the pleading by which the Governor thrust himself into said suit as intervener, to this Memorial.

11. That just prior to the convening of this Ninth Session of the Territorial Legislature, the Governor of Alaska, well knowing that Senate Bill No. 35 would be introduced in the Legislature by those who believe in the formation of an American form of Government in the Territory of Alaska, submitted a copy of Senate Bill No. 1 of 1927, which bill did not pass the Senate, and ignored House Bill No. 30 of 1927, which was similar to Senate Bill No. 35 of this Session, and which bill passed the House in 1927 and was refused consideration in the Senate by a tie vote, to the Solicitor of the Department of the Interior and requested an opinion which would, to use the last clause in the Solicitor's opinion, "show sufficient reasons for the exercise of the veto power by the Governor if such a measure should be passed by the assembly, and, if finally passed over the veto, then for disapproval thereof by Congress under the power reserved by Section 20 of the Organic Act of Alaska"; that that opinion of the Solicitor was approved February 13, 1929, by E. C. Finney, First Assistant Secretary. A copy of that opinion we understand has been used to persuade members of the Legislature to support the Governor's opposition to Senate Bill No. 35 and to strike out Sections 21 to 28, inclusive, thereof which provides for a Board of Control with the Governor at its head and two members to be elected by the people of Alaska; that a copy of the letter of the Solicitor dated February 13, 1929, will be attached to this Memorial.

12. That by reason of the political activity and powerful opposition of the Governor of Alaska to the passage of Senate Bill No. 35, his threats to veto the same, and the influence of other Federal officials against it, your Memorialist, the Territorial Senate of Alaska, thinks it is impossible at this time to secure any favorable action of the Legislature of Alaska on Senate Bill No. 35 with Sections 21 to 28 both inclusive, or any similar provisions, therein, or any favorable action on any legislation to cure the void laws creating the various Territorial Boards, when the offices are filled by Federal officials, in violation of Section 11 of the Organic Act of Alaska.

WHEREFORE your Memorialist prays that Congress will consider the matter and give the people of Alaska relief, by the enactment of a law granting them power to create an American form of Territorial Government in Alaska without domination and control by appointed officials.

And your Memorialist will ever pray.

Passed the Senate, May 2, 1929.