ALASKA CONSTITUTIONAL CONVENTION

December 12, 1955

THIRTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Armstrong, will you give our daily invocation.

REVEREND ARMSTRONG: Our Father, we come to Thee asking for Thy divine help and guidance. Create within us clean hearts, renew within us right spirits, cause us to devote all of our energy to the building of a constitution that will insure right, peace, and harmony within the State of Alaska. Teach us humbly to rely upon Thee for wisdom in each step of our way. For this we ask in Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Mr. Knight?

KNIGHT: Mr. President, after reading the journal for the 31st day I would like to make the following corrections

PRESIDENT EGAN: Mr. Knight, reporting for the special Committee to read the journal, would like to make the following corrections for the journal for the 31st day.

KNIGHT: In the paragraph beginning "A letter from", add the word "Mr." on page 1. On page 4, paragraph beginning with "Mr. McLaughlin" on the second line, delete the word "from" and add thereto the word "of". Same page, beginning with the paragraph "After recess", on the third line, add "S.L.A. 1955" after "46". On page 5, paragraph beginning with "Mr. Riley", the word "rules" should be changed to "ruled". Those are all the corrections, Mr. President. I ask unanimous consent that the journal be approved as read.

HERMANN: I object for a moment, Mr. President. On page 3, in the second paragraph, as I recall the minutes, that should be "both dates inclusive". The word "inclusive" has been left out after "dates".

CHIEF CLERK: No, that was in, Mrs. Hermann, and the words that were added were "both dates". I don't have it right here.

PRESIDENT EGAN: Then on the original resolution the word "inclusive" was there but they added the words, "both dates"?

HERMANN: Then on page 4, the second paragraph, second line says "Paragraph 3 in the resolve be amended. Should that not be resolution"?

PRESIDENT EGAN: That would indicate more or less the title.

CHIEF CLERK: It was the resolve clause that was amended. That is the only way you can designate what was amended, by looking back.

PRESIDENT EGAN: Is there objection to Mr. Knight's request? Mr. Knight asks unanimous consent that the journal for the 31st Convention day, with the proposed amendments offered by the special Committee to read the journal, be approved by the Convention. Is there objection? Hearing no objection it is so ordered. Are there any petitions, memorials, or communications from outside the Convention?

CHIEF CLERK: A letter from the Republican Women's Club of Anchorage, opposing the Tennessee Plan.

PRESIDENT EGAN: If there is no objection the letter will be referred to the Committee on Ordinances, No. IV.

CHIEF CLERK: A letter from Walter J. Hickel. (Clerk read letter inviting the delegates to attend the opening of the Fairbanks Traveler's Inn, December 17 at 1:30 p.m.)

PRESIDENT EGAN: The delegates will attempt to remember that date and the letter will be filed. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Collins?

COLLINS: Mr. President, Committee on Amendment, No. XIII, submits Committee Report No. 3 for first reading.

PRESIDENT EGAN: The Chief Clerk will proceed with the first reading of Proposal No. 3.

CHIEF CLERK: "Committee Proposal No. 3, introduced by the Committee on Direct Legislation, Amendment and Revision, INITIATIVE, REFERENDUM AND RECALL, AMENDMENT AND REVISION."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for placement on the calendar. Are there other reports of standing committees? If not, are there reports of special committees or select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? Mr. Marston?

MARSTON: Mr. President, I think this comes in here. It is pertaining to the arrangements for hearing during recess. I have had communications from my particular group in Spenard and they do not feel that it is necessary for me to call a meeting --

PRESIDENT EGAN: Is there objection to taking up this question at this time? If not, proceed Mr. Marston.

MARSTON: They do not think it necessary for me to call a meeting with them. They have admonished this institution to forget sectionalism and not let it creep in, and they expect to find this constitution, yet written by mankind, one that is acceptable to the people as a whole. They are watching these deliberations very carefully, and they want a constitution built for the good of all, with favoritism toward none. That is the position they took on it and I am carrying that message to you. That comes from my group in Spenard. I will not hold meetings there and therefore I will not be entitled to any compensation for travel or per diem or compensation while I am away. I am so notifying the Finance Committee of that now.

PRESIDENT EGAN: The Chief Clerk will make a note of that fact that he will not accept his per diem or any other compensation during the recess. Are there any motions or resolutions? Is there any unfinished business? Under unfinished business the Chair might state that with regard to the proposed Committee on Engrossment and Enrollment, the Chair desires to appoint Mrs. Sweeney, Mr. Ralph Rivers and Mr. Yule Kilcher to serve as the Committee on Engrossment and Enrollment. Is there any other unfinished business to come before the Convention? Mr. Coghill?

COGHILL: I don't know whether it is in order at this time but Saturday we discussed the possibility of seeing the films. one from the Alaska Visitor's Association and one from the Corps of Engineers. We have arranged for that at the pleasure of the Convention. It will be held in the Mines Auditorium at 7 p.m. this evening. I hope that does not conflict with any committee meetings or hearings and if there is a majority of the Convention that wants to see these films, it will go on as scheduled. However, if the majority of the Convention feels they don't want them, there is no sense in bothering the Mines organization. I think we should have a show of hands on how many want to see this particular two-feature film.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, before we have a show of hands, I would like to suggest that since we have a good deal of business on hand and that we work straight through to 6 o'clock, eat dinner in the cafeteria and go from there to see the film.

That is just a suggestion but I think we would have more who would be willing to stay over and see the film that way than we would have if they had to come back.

HINCKEL: Along the same lines, may I suggest we work to 7 o'clock, go to the show, and eat afterwards.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. President, relative to the discussion on films, I wish to be permitted to read a very brief comment, one from Mr. Bartlett, also one from Dr. Patty and one from Governor Heintzleman, very brief. I will quote just the meat of it. "These pictures are truly authentic. They depict the real Alaska of the far North. The photography is simply beautiful. I hope the pictures may be widely shown to promote a better understanding of the real Arctic." Signed E. L. Bartlett, Alaska Delegate to United States Congress. And from Dr. Patty, "The photography and narrations are excellent. It was a relief to find the restraint and factual way in which you presented your subjects. These will be excellent for showing in schools." Signed Dr. Patty, President, University of Alaska. And from Governor Heintzleman, "I have viewed many pictures of conditions in Northern Alaska and the life of the Eskimos there, but I was never more satisfied with any presentation than with these. You have caught the spirit of the North country." Signed B. Frank Heintzleman, Governor of Alaska. I thought it would be well for the members to know that these have been endorsed by those men whom I have just read.

PRESIDENT EGAN: What seems to be the desire of the Chairman of the Committee on Administration? Mr. McNees?

MCNEES: In line with what we have heard here this morning, I would like to move that we stay organized for a group until 6 o'clock tonight and that the group as a whole see these two pictures at 7 o'clock.

PRESIDENT EGAN: Mr. Smith.

SMITH: Along this same line, I would like to ask the consent to be excused at 3:30 this afternoon on the grounds that I have some very urgent personal business to attend to before 5 o'clock.

PRESIDENT EGAN: If there is no objection, Mr. Smith, you may be excused at 3:30 this afternoon. Mr. Nerland?

NERLAND: Point of information? Is it contemplated that this session will last all day today and if we attend this showing this evening, there will be no committee meetings at all today?

PRESIDENT EGAN: That would be the assumption if this --

NERLAND: It occurs to me our time is drawing short before we recess for the hearings and I know the Finance Committee had planned a meeting for this evening, assuming that we would not have time during the day, and perhaps there are going to be other committees pressed too, to get their committee proposals in before our recess time, which I consider quite essential.

MCNEES: By that motion I did not mean that we should stay in plenary session, of course, we would stay about for the conduct of Convention business.

PRESIDENT EGAN: Mr. McNees, do you think it might be well if, as Mr. Coghill first suggested, before we put any motion to ask those members who feel they will be present at this film showing to raise their hands?

MCNEES: I will withhold the motion for the moment.

PRESIDENT EGAN: Will those delegates who feel they will be present to see the showing of the films, please raise their hands. Mr. Barr?

BARR: Before I vote on that I would like to know for sure if I have a committee meeting tonight for this reason. I would not want to come back out here especially for the show, but if I am going to have a committee meeting afterwards, I will come out early and take in the show. I wonder how many committee meetings are planned.

PRESIDENT EGAN: Are there other committees that plan meetings for tonight? Mr. Victor Rivers?

V. RIVERS: The Executive Committee will have a meeting at 3 o'clock if we can all get together. I think that does not conflict with most of our members.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the Resources Committee will also hold a meeting if time is available. We will hold it on schedule if the plenary session allows. Otherwise, any time that it is possible to hold one.

PRESIDENT EGAN: The Resources Committee will meet as soon as possible, on schedule if the plenary session allows. Mr. Rosswog.

ROSSWOG: Mr. Chairman, your Local Government Committee would like to have a meeting sometime this afternoon, at its regular time or at sometime at least.

AWES: The Bill of Rights Committee would also like to meet, if possible.

PRESIDENT EGAN: The Bill of Rights Committee would like to meet. Mrs. Hermann?

HERMANN: I think if we break up in committee meetings, it will be the usual rule that those who do not have committee meetings will go back to town. I can't vote on this until I know whether I am going to have to come back out here or whether I am going to stay. I would like to see the pictures, but whether or not I can come back out, I don't know. Now, I think my original suggestion was that we continue in plenary session until time to adjourn today and then go ahead with the hearing and after that hold committee meetings if they want to, but I think I would have to know which we are going to do before I could vote.

PRESIDENT EGAN: Perhaps then you would rather find out how long we are going to be here before you put the question as to whether you want to stay and see the film. Mr. Coghill?

COGHILL: Mr. Chairman, it might be well to bring up the thought that possibly we could adjourn our plenary session this morning early and adjourn until 3 o'clock this afternoon and take up plenary work until this afternoon, giving a chance for most of the committees a chance to get together. It is just a suggestion if that would clear up the point of whether you're going to be here or not when the showing convenes.

PRESIDENT EGAN: The Chair would like to state that we should remember we have a committee proposal to work on and it is very hard to tell, subject to the wishes of the body, just when we could recess. Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, in line with the motion, I think it is appropriate to say that in my opinion and a number of others that I have talked to, we should start dividing work up into regular orders of business, both plenary and committee work, we have gotten through the bulk of the work which has been practically all committee work and it was my intention and thought that I would move for a recess about 12:30 today, even though we had an order of business, and ask for recess until 9 o'clock tomorrow morning, and in that way we would then have our afternoon free for committee meetings. If we are going to have something on our calendar from now on, it seems we should divide and give an equal portion of our time to the two different phases that we are facing, the plenary work and committee work. It was my thought that I would at 12:30 ask for an adjournment until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I don't agree that we can divide the time equally between committees and plenary sessions. I think the committees have had their time, and if they are not through, they should find extra time and not interfere with work on the floor.

PRESIDENT EGAN: Mr. McNees, what was the subject matter of your motion? Would you state your motion again.

MCNEES: The motion originally was that we continue to conduct whatever business in a Convention way that we had before us whether plenary sessions or committee meetings, but hold the entire group here through the dinner hour for the showing at 7 o'clock. My understanding was that the showing of this film will not take too long.

COGHILL: No, it is about an hour in length -- the Alaska Visitors and then we have two short thirty-minute films that can be shown but the Alaska Visitors film this is the last night we can possibly obtain the Alaska Visitors film. It is leaving tomorrow.

PRESIDENT EGAN: The Chair would question whether a motion could bind all the members to be sure and stay here to see the film.

MCNEES: I will withdraw the motion.

WALSH: Again I might state I have seen those films, a great part of them, and I think they are very interesting and important. I don't mean to say that we should leave any regular order of business for it, but if the members could arrange so that we could see those at 7 o'clock and for one hour I think they are very important. I realize too, that we have before us business since Saturday, the Judiciary recommended proposal, and I think that time could be given to the continuation of that today. It probably would make some progress. That is a very important and in my opinion, an excellent proposal, and I would like to see the Convention put in some time on that. That is my opinion.

PRESIDENT EGAN: If there is no objection then the Chair will just state that it is planned to have the films at 7 o'clock this evening in the Mines Building, and all those delegates who so desire can attend the showing of those films at that time. Is there any other business to come before the Convention? If not, we will proceed with the second reading of the Committee Proposal No. 2. We have before us an amendment to a motion by Mr. Cooper, as the Chair recalls. Mr. Hinckel?

HINCKEL: I am out of order then because I have withdrawn a motion and I thought I was in order by presenting it now.

PRESIDENT EGAN: Mr. Hinckel, had you withdrawn a motion with the understanding that you would be able to present it later,

but was it not that this particular thing was before us at that time the reason you held your motion? Was that with relation to this committee proposal?

HINCKEL: I am out of order. I will wait.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment to the motion. Mr. Cooper?

COOPER: Since Friday I met with the Judiciary Committee and during the meeting the conversation was very enlightening, and all but, in effect the Committee has taken a pat stand on their Section No. 7, and I would like to withdraw my original motion with the consent of my second, and in effect the only amendment that I could offer at this time would be that after the word "nomination" the last word in Section 7 would be "and possess such additional qualifications as the legislature may prescribe." I don't really believe my amendment now would have any meat whatsoever. As I understand, something not specifically spoken of in the constitution can be accomplished at a later date, such as "the legislature requiring additional qualifications." Am I correct?

PRESIDENT EGAN: Mr. Cooper, now your present amendment to the motion that you originally introduced would set up or give this power to the advisory council, isn't that right, or is that correct?

COOPER: I withdrew that. I ask with the consent of my second.

PRESIDENT EGAN: You would like to withdraw the amendment to your original motion?

COOPER: I would have to take it in that order.

PRESIDENT EGAN: Is there objection to Mr. Cooper's withdrawing the amendment to his original motion? If not, with the consent of the second, the amendment to the original motion by Mr. Cooper is ordered withdrawn.

COOPER: Now, Mr. President, I would like to withdraw the original motion.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that he be allowed to withdraw his original motion which would strike, after the word "state" on line 2, page 3 --

CHIEF CLERK: No, it was a substitution, it was to strike Section 7 and to put in a new Section 7.

COOPER: The original motion was to strike the entire Section 7 and insert the amendment I had written.

PRESIDENT EGAN: Is there objection to Mr. Cooper's withdrawing that motion? Hearing no objection the motion is ordered withdrawn.

COOPER: Mr. President, I do want it made clear to me that if the constitution does not speak on the subject that that subject then is authorized in essence.

PRESIDENT EGAN: Mr. Cooper, if there is no objection the Chair will declare a one-minute recess and perhaps the Rules Committee or other members can answer that exactly. The Convention is at recess.

RECESS

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

COOPER: Having withdrawn my other amendment, I wish at this time to offer an amendment which is my honest feeling that I was trying to accomplish last Friday. I would like to present this amendment and ask for unanimous consent.

PRESIDENT EGAN: Mr. Cooper, do you have your amendment prepared to offer to the Chief Clerk at this time?

COOPER: Yes, I do.

PRESIDENT EGAN: The Chair would like to ask that all delegates please speak up as the gallery is pretty well filled and it is very hard for the delegates to be heard in the gallery.

BUCKALEW: Mr. President, who is in the gallery?

PRESIDENT EGAN: Mr. Buckalew, the Chair understands that there are some 50 students of the senior class of the Fairbanks High School along with several of the faculty, and we are very happy to have you with us this morning. The Chief Clerk will read the amendment.

CHIEF CLERK: "Page 3. line 2, after the word 'state' delete the rest of the section and substitute the following: 'and possess such other qualifications as may be prescribed by law.'"

PRESIDENT EGAN: What is the pleasure of the delegates? Mr. Cooper?

COOPER: I ask unanimous consent to that amendment.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that the proposed amendment be adopted.

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconds the motion. The motion is open for discussion. Mr. Ralph Rivers?

R. RIVERS: Mr. President, I helped George draft this clause for the purpose of achieving what he had in mind. Many of the members of the Rules Committee and of the Judiciary met with the Board of Governors of the Bar Association Saturday noon, and the members of the Board of Governors had expressed the thought that we could very well dispense with that residence requirement and that membership of the Alaska Bar for five whole years stating that additional flexibility was better, and the Board of Governors did not naturally, would not, object to adding some qualifications by the legislature. It is my thought though that if you are going to lay down an eligibility qualification that the legislature may not change that unless we give the legislature authority to do so. Now the effect of the present proposed amendment would be that to be eligible to be a justice of the supreme court or a judge of the superior court you must be a member of the Alaska Bar and possess such other qualifications as the legislature may prescribe. That is the effect of the present amendment, and to get this thing on the way I will trust the legislature as to whether they want to put three years or five years or any other period or else leave it the way it is, so 1 am going to support Mr. Cooper's amendment.

PRESIDENT EGAN: Is there other discussion? Mr. McNees?

MCNEES: Mr. President, I rise to speak in favor of the amendment, feeling that the constitution has no right to restrict, and therefore I would vote in favor of the amendment.

PRESIDENT EGAN: Is there further discussion?

BARR: I spoke on this before. I can only repeat myself, but I would like to say that the principal aim of the constitution is to protect the rights of the people, and the attorneys here have all said that a justice or a judge should have a wide experience in law, not just have had experience as a prosecutor or a corporation attorney or something of that sort, but have wide experience. The people of Alaska who might be judged by that court also will have a right to demand that he have a wide experience and not only in the law but be thoroughly familiar with our conditions in Alaska, since they are rather peculiar to those of the states. It is the duty of we here to see that it is written in the constitution because it is the constitution's purpose to preserve the rights of the

people, and this would do it if there was a five-year residence requirement in the constitution.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I generally would agree with Mr. Barr's ideas about protecting the rights of the people. Requirements might seem in order if we did not have this new situation where a board consisting of a majority of lawyers that are also interested in the people's rights. They are appointed by people who are interested in the people's rights. Therefore, it has practically full powers to nominate the right kind of people, and furthermore we have the legislature, who is mainly interested in protecting the people's rights to establish further qualifications if they choose, and I think it is satisfactory to protect the people's rights and I am in favor of Mr. Cooper's amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have to further explain myself again, that that is exactly, that is the protection of the people's rights was what I was trying to accomplish and what I have accomplished by this amendment. The people have no choice originally in the appointment or in the nomination for judges, but through the people's representatives, their legislators, they will have the right to insist on additional qualifications if the people so desire. That was exactly the entire essence of my amendment, in that the qualifications can be increased if the people so desire.

MARSTON: Mr. President, may I have the Cooper amendment read?

PRESIDENT EGAN: Would the Chief Clerk please read the amendment by Mr. Cooper.

CHIEF CLERK: "Page 3, line 2, after the word 'state' delete the rest of the section and substitute the following: 'and possess such other qualifications as may be prescribed by law.'"

MARSTON: I vote for the Cooper resolution.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I would like to call attention to the fact that at the last plenary session when this section was before us the precise question was also considered and voted on twice. In other words, the striking of everything in Section 7 after the word "state" in line 2 on page 3, that proposal came before us twice at the last plenary session and was rejected by the Convention. The only new part of this proposal is the addition of the wording after the word "state" which

is, "and possess such other qualifications as the legislature may prescribe. Now that part of the amendment or proposed amendment is new. I contend that the first part of the amendment has already been acted on twice and is not proper and should be rejected on that basis. However, I would like to point out that Saturday the Judicial Committee had a meeting at which Mr. Cooper attended, and at that meeting Mr. Cooper gave us the understanding and the impression that all he wanted to do was to add the phraseology, and possess such additional qualifications as the legislature may prescribe" to the wording already contained in Section 7, without any deletions, except for deleting the period and inserting a semicolon after the word "nomination". That was the understanding of the Judiciary Committee and so far as I know the Committee approved of that particular change. But now, presumably over the weekend, he has changed his mind and now wants to strike out all of the words which I believe have already been passed on twice and I think this five-year requirement certainly is not an unreasonable safeguard to put in the article, and it has been passed on, certainly unanimously, by the entire Judiciary Committee, and I am not aware that the Board of Governors of the Alaska Bar Association are necessarily opposed to it, as Mr. Ralph Rivers indicated, because I attended the meeting yesterday afternoon of the Judiciary Committee, and the Board of Governors of the Alaska Bar Association, and so far as I know nothing was said at that time to indicate that the Bar Association wanted this five-year requirement stricken from the constitution. They did raise questions about whether or not there would be available manpower. However, they felt that the authority given to the judicial council was broad enough in the entire article to give or to provide for a good and independent judiciary when the time comes. I believe that the amendment is out of order and I certainly am opposed to it.

PRESIDENT EGAN: The Chair would have to state at this point that in the opinion of the Chair the amendment is in order. There is something new that entirely changes the original idea, so the Chair would have to hold that the amendment is in order.

R. RIVERS: I was going to ask for the privilege of the floor for just a moment. It was to the effect that Mr. Clasby, Secretary of the Board of Governors, said that they approved this article as a whole but were going to make some minor suggestions, and one of the suggestions that they were going to make was that we might modify this five-year business. Then he went on to say," We're short of manpower and maybe we can get a good judge elsewhere." Now they did not say to what extent they might want it modified, but they distinctly left the impression we did not need that five-year residence in there. I don't think Mr. Johnson was trying to impair my integrity. Perhaps he and I just did not hear it the same way.

PRESIDENT EGAN: Mr. Taylor?

TAYLOR: I will have to take issue with Mr. Rivers on that. We had a meeting of the Judiciary Committee with the Board of Governors of the Alaska Bar Association. I don't know whether Mr. Rivers was there last night, and they have withdrawn all objections to the bill. There was only one man who voiced objection. That was Mr. Clasby, the Secretary, and that was personal objection, not the Board of Governors. They said to leave it as it is, and as far as the manpower.condition might exist of getting six or nine judges, if they had to pick them all at one time, that it should be better to leave this bill exactly the way it is now, except at the end, after the word "nomination" , then "possess such other qualifications as the legislature may prescribe or which may be provided by law." So there is nothing from the Board of Governors here but what they are in favor of it. They spoke very highly of it yesterday. They said to leave it go the way it is. You don't see them here objecting to it, do you? That was the result of the meeting yesterday.

R. RIVERS: I refer to a luncheon meeting on Saturday. If they had the following meeting I must have overlooked it, but I do refer to a luncheon meeting on Saturday.

TAYLOR: They raised some very minor objections, but the other members said those were taken care of in the bill itself. I don't think they had time to go over it fully.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, to clarify a very minor tempest in a teapot, Mr. Johnson, for his information Mr. Cooper asked me this morning whether or not he in substance were bound by his conversations with the Judiciary Committee on Saturday, and I assured him, Mr. Johnson, that if he felt in good conscience that he had in substance agreed to something that he now regretted, I felt sure the Judiciary Committee did not feel it was a commitment of sorts. It was on my assurance, Mr. Johnson, that he changed his mind and submitted a new amendment. That is in justification of Mr. Cooper's attitude.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Taylor a question. Mr. Taylor, if the proposed amendment is defeated, do you plan to propose an amendment adding the words, "and subject to such further eligibility qualifications as the legislature may prescribe", following the present Section 7?

TAYLOR: Yes. If this motion carries, which I hope it does not, I would offer that amendment.

HELLENTHAL: If it is defeated, what do you plan to do, offer this amendment?

TAYLOR: No, I would not offer that amendment for the reason that I am on this Committee, and I bound myself to go for this bill as it is. It might be if the amendment is offered I might support it, but I am not going to offer any amendment to change the nature.

PRESIDENT EGAN: Mr. Gray.

GRAY: I am not speaking from a lawyer's standpoint (I'll let them take care of that but just from the protection of the average citizen, I believe in the supreme court justice much like we have the governor. If we have a five-year residence requirement, it is no requirement to a position of that statute in the State of Alaska. By five years the people will know what they are getting for supreme court judges. Just like by five years residence, we will know what we will be getting for governor. I believe in the five-year requirement. It gives the people a chance to know who they are receiving for the top offices of the state. For that reason I am going to go along with the five-year residence requirement.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I oppose Mr. Cooper's amendment, that part of it which abolishes the five-year residence requirement. I have seen many times in the small towns where newcomers come to town with a good gift of gab and a great big smile and they win a lot of friends immediately and a few months afterwards they have just as many enemies. Therefore, I feel that we should have the entire five-year residence requirement so that we really know what people are under stress and under pressure. Let me ask you also, remind the delegates that this constitution for the great State of Missouri, which was revised and adopted in 1945, the residence requirement was said last week were nine years in addition to being 15 years a citizen of the United States. If it is good enough for the State of Missouri and other states that have adopted recent constitutions, it certainly should be good enough for us. Another matter I want to bring up with reference to the late Judge Dimond. What were the reasons for him being loved by every one, it was the fact that he was a long-time resident here in the Territory. He worked with the miners out in the hills in the winter time and understood the common man's problems. He was not only a humane judge but learned in the law, and I wish you people would remember that, that residence means something, and therefore I oppose Mr. Cooper's motion for that reason.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the last time this was discussed on

the floor I was in substance probably opposed to the amendment offered by Mr. Cooper or an amendment of this type. However, in talking with other attorneys over the weekend who are not members of the Judiciary Committee here, it has changed my thinking, and I am wholeheartedly in favor of the amendment as offered by Mr. Cooper and for several reasons. The bill, as I see it in going all the way through, is set up so it leaves no possible control by the legislature whatsoever. It is entirely a piece of legislation in itself. It purports to have a closed corporation, so to speak, in my opinion. Now if the judiciary council or the Judiciary Committee believes so strongly in the qualifications of the judiciary council, as it is going to be set up, then there should be no worry on their part or the part of anyone in this Convention of having this amendment adopted, because this supreme judicial council will without question appoint the right man, and if they feel that he should have five years residence in the Territory and five-years practice in the Territory, surely this council, also set up by the Judiciary Committee, is not going to go off the track. If they are, there is something wrong with the judicial council system. Now conditions may change over a course of years, or if the matter is left to the legislature they may see a necessity for rather than five years, of requiring ten years here. I think it certainly should, some parts of this bill at least, should be left to the discretion of the legislature. As an attorney I probably should be in favor of a closed shop corporation, but for the reasons I have stated, I believe no harm can be done, in fact I believe the bill will be greatly improved, and certainly it would be in my opinion, to adopt the amendment as offered by Mr. Cooper.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I voted against the amendment to delete the five-year residence the other day. I am going to vote for Mr. Cooper's amendment because something new which has been added, in my mind, strengthens it to the point where I can support it. I think one of the fundamental things that this body is going to have to do, whether they like it or not, is to develop faith and trust in the future legislatures of Alaska. Now I have on occasion criticized the legislature, and I reserve the right to do it again, but nevertheless, it is a very important instrumentality of government. And it is the only instrumentality of government that is sufficiently flexible to correct conditions that may change with the passing years, and for one I am not insisting that we have five years of residence if the amendment is in that will permit the legislature to correct that if the need for it ever arises. I am going to support Mr. Cooper's amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, may I ask the Clerk to read the portion which is to be added under Mr. Cooper's amendment?

CHIEF CLERK: "and possess such other qualifications as may be prescribed by law."

DAVIS: May I direct a question to Mr. Cooper? Mr. Cooper, I would ask as to whether you would make any objection to substituting the word "additional" for the word "other"?

COOPER: I have no objection.

DAVIS: I would like to offer an amendment to Mr. Cooper's proposed amendment to substitute the word "additional" for the word "other", and I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the word "additional" be substituted for the word "other" in Mr. Cooper's proposed amendment. Is there objection? Hearing no objection the change is ordered made. Now we have the original amendment. Mr. Stewart?

STEWART: As a nonlawyer, I would like to say that I have been convinced now that with the legislature having the say as to the qualifications of the Chief Justice, I am going to support the amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I am going to restate my position of the other day that I think that every man in high office in the Territory, whether it be on the judiciary or the executive, wherever he may be, where he is establishing policy and handling the affairs of the Alaskans, should have a close acquaintance with Alaska. I believe that the requirement of the registration should stay in. I can also see that unless you have, as we come into the new status of statehood, there is going to be a transitory period. In that transitory period, under this amendment, the only requirement you will have for your chief justice on down will be admission to the Alaska bar. Now it's nice to say that the judicial council will make no mistakes but I am sure that there is nobody that has ever been assembled that won't make mistakes. I think it is a necessary safeguard that we leave in the five years of practice and the five years of residence. I don't agree with this idea of opening the gates wide open. As far as any closed shop goes, it is not a closed shop to say that a man shall not only have an acquaintance with the law in his business but he shall also have an acquaintance with the people and the country he is doing business with and doing business for. It seems to me utterly ridiculous to pass this on to the legislature in this particular form, in this particular instance. I notice that practically none of the other states have done it. If they

had any good reason, I think they had. We have also a good reason to retain the five years, because I am sure as I stand here, in the transitory provisions the legislature will be piled high with work. They are not going to take up the minor qualifications of judges at that time. You are going to get a chief justice, and all the first appointments to the court will come in with the only requirement being they will be admitted to the bar and to my way of thinking that is not adequate.

PRESIDENT EGAN: Mr. Coghill?

COGHILL: Speaking for the first time on this proposal and being a nonattorney, I go along with Mr. Rivers on his statement and would like to bring that further in opposing this. You are in fact placing the responsibility on the legislature to encroach upon a division of government, which is the judicial. Also, you will note that in past years in the legislature, if you are going to throw the qualifications of judges into the legislative hands that you are going to encroach upon the people being willing to take responsibility to that effect, the same way as has been brought about by board members in our Territorial form of government. Therefore, I am opposed to the amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to speak in favor of this amendment. I feel that the requirements should be left flexible and that we will have protection in the judicial council. I have been a long resident of the Territory and I have grown to look at it from the attitude of residence requirements from our officials, but I do think in this case I would be in favor of the amendment.

PRESIDENT EGAN: Mr. Robertson:

ROBERTSON: Mr. President, I am obliged to oppose this proposed amendment. In my opinion this is not setting up a closed corporation. It is a provision particularly for the protection of the people of Alaska because they get a good judiciary. I would have no objection to adding to the present Section 7, the last clause of Mr. Cooper's proposed amendment, "and possess such other qualifications as may be prescribed by law." But I think we ought to have the minimum limitations to start out with, and furthermore, I think we have the manpower among the men who are practicing attorneys in Alaska to obtain the necessary judgeships and justices as we enter statehood, and I hope the amendment is voted down.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I wish to speak in favor of the

amendment for this reason. A statement just recently made on the floor here stated that there were sufficient qualified men in the legal profession in the Territory at the present time to cover the jobs that would be open when we become a state. Now that is just a polite way of inferring possibly that a certain amount of protection should be given to the men who are in the Territory in the legal profession. The point I wish to make is this there are going to be so many small items which will come up before this final document is completed, Mr. President, that the antistatehood crowd will be able to go to the members of Congress and say, "They are building a fence around themselves." They will have 25 or 30 small items which from the standpoint of publicity and personal opinion, they can sway members of Congress and say, "Who do those Alaskans think they are, building a fence around themselves and they want to get into the Union of the United States." We have an end product to sell. We had better make that pretty liberal if we are going to get into the Union.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Robertson, if this amendment is defeated, will you propose an amendment adding the words, "and subject to such further qualifications as the legislature may prescribe" to the present Section 7?

BUCKALEW: Point of order. I think it is out of order to ask a man if he is going to offer an amendment if this passes, and ask somebody else if that is

PRESIDENT EGAN: The Chair will have to hold that your point of order is well taken in that it doesn't have anything to do with this amendment before us right now.

HELLENTHAL: Mr. Chairman, if I felt that the members of the Judiciary Committee would offer the amendment that I speak of, to the present Section 7, I would then vote against Mr. Cooper's amendment. However, until those assurances are forthcoming, I shall vote for Mr. Cooper's amendment. Now, Mr. Coghill made a mention that the Cooper amendment, he said would encroach upon the prerogatives of the judiciary. Well, I cannot see that in the light of Section 8. The Judiciary Committee in Section 8, as far as judges of other courts are concerned, is perfectly willing to leave their qualifications to the legislature. So if Mr. Coghill is consistent, Section 8 would have to be amended and rewritten completely. So I see nothing wrong in allowing the legislature to prescribe the qualifications. However, I do think it would be preferable if the residence requirement were left in as a minimum and then the legislature would take up from there. But until I have assurances from the Judiciary Committee I shall support this amendment.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I feel impelled to support Mr. Robertson and Mr. Rivers in speaking against the proposed amendment. 1, too, would go along with the idea that after the word "nominations" if we added in that the additional qualifications by the legislature could be set up. I feel the little fence building by Alaskans is not a bad idea, since primarily we are using airplanes these days and are able to get over fences. Also, I believe the proponents of this thing are presupposing that we are going to have statehood in the next 15 minutes. I like to view that idea kindly but I am afraid it is not going to be the case. There are a good many qualified attorneys, young attorneys here in Alaska who will have had more probably than ample residence requirements to be joining in such a thing as this by the time we get to be a state and we shouldn't overlook that fact. I am compelled to vote against this proposed amendment, but if it were later on added in after the word "nominations ", I would be inclined to support it.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, first of all I would like to say that if I in any way impuned Mr. Ralph Rivers' integrity, I apologize. I had no such intention. In answer to what Mr. Hilscher has said about going to Congress with a constitution that provides little fences, I would like to point out that the constitution of the Commonwealth of Puerto Rico, which has already been approved by the Congress, makes the residence requirement for judges ten years, "and they shall have been admitted to practice law in Puerto Rico at least ten years prior to this appointment and shall have resided in Puerto Rico at least five years immediately prior thereto." That was the type of fence that was built in Puerto Rico and which was subsequently approved by the Congress. I don't see that that is any argument against the amendment. I go along with Mr. Robertson, Mr. McCutcheon and Mr. Victor Rivers in their idea that the language sought to be added after striking out the five-year requirement, could well be added to the section as it is now, and I would have no objection to that and I would be willing to offer such an amendment if this proposal is defeated.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would like to make only the statement that the comparison.of Alaska with Puerto Rico is a most unhappy one. For one thing Puerto Rico is a Commonwealth. If some of them had their way they would be entirely independent. They have a language of their own, they are feeling like a minority nationality, they are an overpopulated small island. A lot of them are leaving their country, entirely the reverse situation of Alaska. We are a country that is vast and we are

absorbing population yet, so from this point of view I think that we could not possibly choose an unlikelier comparison than the one with Puerto Rico. Again I reiterate that I still think that the amendment should be supported.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it is very true that Puerto Rico is far different than Alaska, but Congress's feeling on this subject is probably the same in both cases, and I would like to point out here that in the debate on the floor we have been for and against two different things in this amendment. One is the residence requirement and the other is whether or not the legislature should have some say in this matter of appointment. Now I believe that we should leave the residence requirement in, as I have stated before. Another reason that I have not stated is that since we have our choice of appointing these judges or electing them, and we have chosen not to elect them for very good reasons, it seems that we should at least then give the people a chance to know who is going to be the judge. If he has been residing here for five years or practicing law for five years, at least they're acquainted with him or heard of him and they have some chance to object, but not so if he comes in from the outside as a stranger. If this amendment fails and if someone else does not put in a like amendment, I am prepared to put in an amendment incorporating Mr. Cooper's words regarding the legislature but placing them after the words in the third line, "for at least five years" and striking, "next preceding their respective nominations". I don't think they should be required to live here five years just immediately before their nomination because such a man might be elected to Congress and want to come back.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, several speakers have referred to this provision as it now stands as one designed to protect the people of the state and have attacked this proposed amendment as being one that would remove the protection from the people. I disagree completely with that kind of an approach. I am sure that the legislature would put in requirements that would insure protection of the people of Alaska but at the same time, by leaving it to the legislature, we would also insure that it would be flexible enough to assure that we would get good judges in Alaska.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I move the previous question.

PRESIDENT EGAN: Mr. Taylor had been trying to get the floor. Mr. Taylor.

TAYLOR: There has been some objection voiced here as to citing Puerto Rico as an example of building a fence around themselves. Now Mr. Kilcher says we should not pay any attention to that example because they speak a different language, they are a different class of people, they are on a little island. I would like to call Mr. Kilcher's attention to the fact that Hawaii, who has called their convention and have a constitution, and we have referred to it a good many times here, they have the ten-year residence and practice provision for the judges of Hawaii. Now nobody has spoken out against the Hawaii Constitution. The Congress has not said to them they cannot have statehood because they have got a ten-year residence and practice for judges. It is the accepted thing all over the United States. The various constitutions that have been drawn or revised within the past ten or twelve years, have all got the residence requirement up to 15 years. I don't think we are letting the bars down in this thing whatsoever, and as I said, we had the meeting the other day with a number of people who were objecting to this, Mr. Cooper amongst them, and at that time the Judiciary Committee agreed with those men that after the word "nomination" at the end of the paragraph we would insert a semicolon and, "provided however that the legislature may prescribe other qualifications" and leave the paragraph as it was. Well, we had agreed that the members of the Committee would not make any changes but we would support that amendment, and I will support that amendment if it is put at the end of the present paragraph. Mr. Johnson says he will do it. Also, coming back to this fact of the striking of this five-year residence and five-year practice provision here, I think that is brought about by certain elements in Alaska wanting some outside judges. Now, there is only one man who spoke on the Board of Governors for that. That is a man who is a big corporation attorney, and he is the one who wants to get the judges from outside. Is it not much better that we have judges from lawyers in Alaska? We know them, we have a chance to pass on their qualifications and if they have a five-year residence and a five-year practice, we know it. But what would we know about a man's ability, his honesty and integrity if he is dragged in here from the outside, perhaps for a particular purpose? I feel we should select them from the people that we know. I think we should leave this in here.

UNIDENTIFIED DELEGATE: Question.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read the proposed amendment as amended, as it is now offered by Mr. Cooper.

CHIEF CLERK: "Page 3, line 2, after the word 'state', delete the rest of the section and substitute the following: 'and possess such additional qualifications as may be prescribed by law.'"

UNIDENTIFIED DELEGATE: Question.

METCALF: Roll call.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, inasmuch as I moved this amendment, do I have the right to close the debate?

PRESIDENT EGAN: That is correct.

COOPER: All I can say is that in listening to this entire discussion what has been proven to me so far is that the best qualifications for a judge is an Alaskan who has lived here for five years and been admitted to practice law for five years. That is practically the only qualification as it now stands. I can see no reason why that is necessary. The best men, possibly a better man, will be available and made available to the people of Alaska if that man has the right to serve as a judge whether he has lived here for five years or not. It is the people of Alaska that are going to be tried by these judges and not the Alaska Bar Association, and the best judge that can be secured to sit on the bench is what the people are entitled to. The people have only one recourse and that is through the legislature. That is why my amendment was presented. That is their final recourse, the only recourse, and if additional qualifications should be or could be prescribed by the legislature to secure a better judge, then I believe that is the right of the people.

PRESIDENT EGAN: The question is, "Shall Mr. Cooper's amendment as amended, be adopted by the Convention?"

JOHNSON: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 32 - Awes, Buckalew, Cooper, Cross, Davis, Emberg, V. Fischer, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Lee, Londborg, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Nays: 21 - Armstrong, Barr, Boswell, Coghill, Collins, Gray, Harris, Hellenthal, Johnson, King, Knight, Laws,

McCutcheon, McLaughlin, Metcalf, Nolan, V. Rivers, Robertson, Sweeney, Taylor, Walsh.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 32 yeas, 21 nays, and 2 absent.

PRESIDENT EGAN: So the proposed amendment has been adopted by the Convention. Mr. Hinckel?

HINCKEL: On Friday I had an amendment in which I did not withdraw, but I withdrew my motion for approval. I would now like to withdraw the amendment and substitute an amendment that reads as follows --

PRESIDENT EGAN: Mr. Hinckel asks unanimous consent. Was it ever offered for the record? It was not moved, Mr. Hinckel, so it would not have been on the record, and you can just offer the new amendment if you so choose.

HINCKEL: I offer this amendment and ask unanimous consent. "Section 5, line 6. Proposal No. 2, after the words, 'rejection of the voters' we delete the words, 'of the State'."

PRESIDENT EGAN: In line 6, page 2, wasn't the word "qualified"?

HINCKEL: I had previously suggested that the words "those voters of the State" be deleted and another phrase substituted, but now I am requesting only the words "of the State" be deleted because I am told by legal counsel that I accomplish the same purpose by just striking those words.

PRESIDENT EGAN: Do you ask unanimous consent for the adoption of that proposed amendment, Mr. Hinckel?

HINCKEL: I do.

PRESIDENT EGAN: Is there objection to Mr. Hinckel's unanimous consent request? Mr. Stewart?

STEWART: May I ask Mr. Hinckel to explain why.

HINCKEL: The object in making the request was that I felt if it was left worded as it is that there is the possibility of interpretation that all elections or confirmations of judges for the superior and supreme court for the statewide election, and I felt that the superior court judges should be confirmed

by the people under their jurisdiction.

PRESIDENT EGAN: Mr. McLaughlin, you may ask a question.

MCLAUGHLIN: Merely to confirm Mr. Hinckel, he did discuss the matter with the Judiciary Committee, and we unanimously agreed that it would not change the deletion of the words, "of the state" on line 6, page 2, would not change the meaning and would effectuate the purpose that Mr. Hinckel sought. In other words, the Judiciary Committee unanimously consents.

PRESIDENT EGAN: Is there further objection to Mr. Hinckel's unanimous consent request? If not, the request has been adopted by the Convention and the words "of the State" are ordered deleted. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess for ten minutes.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has been informed that we have with us some of the members of the Board of Governors of the Alaska Bar Association. We have the President of the Alaska Bar, Mr. Mike Monagle of Juneau, and we are certainly happy to have you with us this morning. We are now on Section 8 of the Committee Proposal No. 2. Are there amendments to Section 8? If not, we will proceed to Section 9. Are there amendments to Section 9?

HURLEY: May I ask the Chairman of the Committee on Judiciary a question?

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

HURLEY: Is there in your opinion, Mr. Chairman, any possibility that the judicial council would nominate a large number of persons for selection by the governor? In other words, say ten, in which case it would, in effect, place the selection and the nomination on the governor and relieve the judicial council of any responsibility for having selected a precise panel. In other words, the fact that there is no upper limit there, would that affect the --

MCLAUGHLIN: The possibility does exist that the council could do that. Under the Missouri Plan, that is under the Missouri Constitution from which this section is derived, it reads "not less than three". It was the intent of the Judiciary Committee not to make it "not less than three" because then by law the council would be required to present three persons.

It is the desire of the Judiciary Committee and to some extent that had confirmation of the Board of Governors of the Alaska Bar Association that we keep the selections down to a minimum, because of the limited number of lawyers that we have in the Territory we wanted to restrict the selection of the governor. In fact, the fear has been expressed already that initially the governor might have too much determination in selecting the judges. For that reason it was kept down to two, but with the increase in size of the state it is well recognized that then the judicial council should have latitude in submitting more than two nominations for the one vacancy.

SUNDBORG: May I be permitted to address a question to Mr. McLaughlin?

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

SUNDBORG: Mr. McLaughlin, several days ago when we were discussing this article for the first time, as I heard you, you answered a question, asked by someone, on whether if the governor did not like the names suggested to him he could call for more names, and my recollection was that you answered that in that case more names would be supplied. Was that a considered answer?

MCLAUGHLIN: That was not a considered answer. I believe that I corrected myself. Under this article, under Section 9, the governor has no right of refusal, he cannot refuse. The obvious answer to it, that's the way the section was intended, if there was any other intent it would mean, particularly with the present status of the Alaska Bar, that if the governor refused, he would very promptly exhaust all nominees and he would pick the man that he wanted.

SUNDBORG: Thank you, I just wanted to clear the record. May I address another question to Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Also with respect to Section 9. it does not mention there is an office of chief justice. Is there an office of chief justice created by this article? The reason I ask is that when a man, for instance, is appointed by the governor to the position of chief justice, does he hold that position subject to the elections every ten years, and the retirement provision is in here for life, or does each governor who is elected have the right to name a chief justice from among the panel that then makes up the supreme court?

MCLAUGHLIN: There is an office of the chief justice and once appointed by the governor, he remains the chief justice for life or until removed by the voters or until retired for other cause or resignation.

PRESIDENT EGAN: Mr. White?

WHITE: My question was somewhat along the same line, Mr. President. I am not sure that that answered it or not. Did I understand the intent of this section Mr. McLaughlin, to be that when the office of chief justice of the supreme court becomes vacant it, the new appointee is automatically the chief justice?

MCLAUGHLIN: Those who are designated by the judicial council, the nominees, the governor selects one of the two or maybe three nominees. The governor selects one of those and that man becomes the chief justice.

WHITE: Not only the first time but each subsequent time the office becomes vacant?

MCLAUGHLIN: That is correct.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Following through on the same line, if the governor desired to elevate one of the justices of the supreme court to be the chief justice, it would have to go through the regular procedure of approval by the judicial council that his name might be one of two submitted to the governor, and then it would be up to him to choose?

MCLAUGHLIN: That does not preclude a member of the supreme court from becoming chief justice. Actually, under this act he could resign. The judicial council could select him, he and someone else submitted to the governor and if the governor selected him, then he would become chief justice.

V. FISCHER: Would he have to resign?

MCLAUGHLIN: There is a possibility he would have to resign.

PRESIDENT EGAN: Are there any other questions or amendments relative to Section 9? If not, we will proceed with Section 10. Are there amendments to Section 10? Mr. Sundborg?

SUNDBORG: Mr. President, may I be permitted to address a question to Mr. McLaughlin? With respect to Section 10 I am in the dark as to what you mean by this phrase, "on the basis of appropriate area representation".

MCLAUGHLIN: The phrase, "on the basis of appropriate area representation" was put in there as a guide in order to assure that the judicial council would not consist entirely of three lawyers, let us say from an area like Anchorage. It was intended to have the representation from all areas of the Territory. We were indicating an intent to have a geographical

representation.

SUNDBORG: That then refers to and modifies the word, "appoint". They "appoint on the basis of appropriate area representation"?

MCLAUGHLIN: That is right.

V. RlVERS: Are members of the bar, all members of the bar, members of the "organized state bar", or is that just the American Bar Association?

MCLAUGHLIN: The "organized state bar" was a generic term the Committee took as best representing what would be a statewide organization of attorneys. Originally the Committee did have the expression "The Alaska Bar Association or its successor". The difficulty was that the legislature could terminate the organized bar, that is terminate the integrated bar, and we use the "organized bar" as best representing that association which would represent all the attorneys of the Territory.

V. RIVERS: "Organized state bar" would not necessarily imply that all members admitted to the bar then were members of that organized bar, is that right?

MCLAUGHLIN: That would imply this, that all could belong to it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to address a question to Mr. McLaughlin. My question really has reference to Section 11 but affects Section 10. In Section 11 you mention that "the chief justice shall thereafter be ex officio a seventh member and the chairman of the judicial council" and then mention that it requires an affirmative vote of four of its members. Does the term, "ex officio member", restrict his voting rights in that group?

MCLAUGHLIN: It does not restrict his voting rights at all.

HURLEY: In the matter of a tie he would have a vote?

MCLAUGHLIN: He does anyway.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to address a question to Mr. McLaughlin. I am just a little curious as to the Committee reasons for providing that the organized state bar shall appoint the three attorney members and that the governor shall appoint the three nonattorney members.

MCLAUGHLIN: The reason, Mr. President, for that is that is the very essence of the so-called Missouri Plan. The three who are appointed by the bar represent a craft in substance, the theory being, and it has worked out in Missouri, that they best know their brothers, and they are there, based solely on their professional qualifications but selected because they would represent in theory the best thinking of the bar, and they are there solely because they represent their craft. In essence there is nothing undemocratic about it because of the fact that we know by its very nature that the judges of the supreme and superior court will be attorneys. The three lay members are in substance those who represent the public. Under the Missouri Plan there is a specific provision that the members appointed by the bar of Missouri shall be elected. They specifically use the word "elected". We didn't use it, we did not deem it necessary. Under the Missouri Plan the three laymen are appointed by the governor. There is a difference in this Section 9 in the sense that the laymen under our Section 9 are required to be approved by the senate. That is, they are subject to confirmation by the senate. The reason that varies from the Missouri Plan is that what happened was in Committee there was quite some discussion about the popular representation.

DAVIS: Mr. President, before he goes ahead, he is talking about Section 9, I am sure he meant Section 10. I would like it to be clear.

MCLAUGHLIN: Do you desire me to proceed, Mr. President, or wait until that arises.

PRESIDENT EGAN: It might be inasmuch as the question has arisen that if there is no objection, Mr. McLaughlin could proceed. Mr. Fischer?

V. FISCHER: I would like to give cause to the question to arise by introducing an amendment on this subject.

PRESIDENT EGAN: Mr. Fischer, you may introduce your amendment at this time. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 10, page 3, line 22, strike the comma after the word 'article', substitute a period and strike the remainder of the sentence."

V. FISCHER: Mr. President, I move and ask unanimous consent for the adoption of this motion.

MCCUTCHEON: I object.

COGHILL: I second the motion.

PRESIDENT EGAN: Objection is heard. Mr. Coghill seconds the motion. The question is open for discussion. Mr. Fischer?

V. FISCHER: I would just like to briefly say that I believe the confirmation requirement is not necessary and is in a way

discriminatory against the lay members. I can see why it was put in originally, to give the legislature some say in the selection of judges. We have now amended Section 7 to provide that the qualifications, in effect, would be established by the legislature, and I believe that therefore we should not require confirmation of lay appointees to the council by the legislature.

PRESIDENT EGAN: Is there further discussion of the motion by Mr. Fischer? Mr. Taylor?

TAYLOR: Perhaps Mr. Fischer did not give full consideration to this particular section of the proposal. Under our present act, the Bar Association, the integrated bar, is an official body of the Territory. It is, you might say, chartered, by the legislature, and compulsory membership is required under the act. Nobody can practice law unless they have been admitted to the bar and belong to the integrated bar. Now the bar is screening their applicants, their men for the board, on this judicial board. They must have certain geographical representation in the integrated bar. We have three from the First Division, three from the Third Division and three from the combined Second and Fourth Divisions. So the selection of the three attorney members of the Commission are a selection by an official Alaska organization, the integrated bar. The other three would be selected and approved by the senate, appointed by the governor and approved by the senate. The attorney members have already been approved by the Alaska Bar Association, so why then put them through a further screening when they have already been screened by the members. The lay members have not been screened at all, only by the senate. We feel that the bar members are screened by the bar, then the lay members are screened by the senate. It makes it even.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, there is in Section 10, it is pertinent to this motion, the way that I interpret it, line 16, "the appropriate area", in line 20, "different major areas". I would like to ask Mr. McLaughlin if the intent was that the three attorney members of the judicial council would come from three appropriate areas and the three lay members would come from different major areas than that of the three appropriate areas?

MCLAUGHLIN: There is no difference. In fact, if the Committee on Style and Drafting desires in the future to change it, we would be delighted. The one reason why we have left in the words "major areas" on the laymen representation is the possibility (forgive me, Mr. Walsh) that Nome itself might have the feeling that it would be left out in its representation. If we struck "major areas" then there would be

an implication that we did not have to worry about certain areas of the Territory. Frankly, it is my belief that both could be made to conform and the same wording could be used.

COOPER: In other words then, the idea is not to cause the three laymen to come from different areas than the areas from which the three lawyers came?

MCLAUGHLIN: No, there was no such intent.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to ask the question of the Judicial Committee, if using the word major, does not that denote there is also a minor?

MCLAUGHLIN: In answer to that, Mr. Londborg, if the representatives from the alleged minor areas so desire, we can strike the whole expression, "major area or appropriate area" and then you're not assured of any representation at all. It is the desire of the Committee to have a general geographical representation on the judicial council and that includes all areas.

COGHILL: Point of order. I believe we are diverting from the subject before the Convention. We have a motion on confirmation by the senate for the nonattorney members. We are talking about representation from the major areas. I think we ought to dispose of the subject at hand.

PRESIDENT EGAN: You are correct, Mr. Coghill. That was allowed because the question was asked. The question is, "Shall Mr. Fischer's amendment, inserting a period and striking the words, 'subject to confirmation by the Senate', on line 22 of page 3, be adopted?" Mr. Davis?

DAVIS: Mr. President, was Mr. Fischer's motion seconded?

PRESIDENT EGAN: Yes, by Mr. Coghill. Mrs. Nordale?

NORDALE: I would like to call attention to the fact that one speaker said that the organized bar was an arm of the Territorial government and the senate was an arm of the Territorial government, and I would like to point out that the governor is certainly an arm of the Territorial government and elected by direct vote of the people.

HELLENTHAL: Mr. President, on Mrs. Nordale's suggestion I heartily agree. The people through their agency, the integrated bar, are going to screen the three attorney members. The people through their agent, the governor, will screen the nonattorney members. I don't know why we should get the senate in on the act in addition.

PRESIDENT EGAN: Does anyone else wish to speak on the subject?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall Mr. Fischer's amendment be adopted?

METCALF: Roll call.

PRESIDENT EGAN: Mr. Metcalf asks that the roll be called. The Chief Clerk will call the roll.

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

Yeas: 26 - Armstrong, Boswell, Coghill, Collins, Cooper, Cross, Davis, V. Fischer, Hellenthal, Hilscher, Hurley, Kilcher, Knight, Lee, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Rosswog, Sundborg, Sweeney, VanderLeest, White.

Nays: 27 - Awes, Barr, Buckalew, Emberg, Gray, Harris, Hermann, Hinckel, Johnson, King, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, V. Rivers, Robertson, Smith, Stewart, Taylor, Walsh, Wien, Mr. President.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 26 yeas, 27 nays and 2 absent.

PRESIDENT EGAN: So the amendment has failed of adoption. Mr. Sundborg?

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

PRESIDENT EGAN: Mr. Sundborg has an amendment to offer to Section 10. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 10, line 22, strike the words 'the Senate' and insert in lieu thereof the following: 'a majority of the members of the Legislature in joint session assembled'."

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

JOHNSON: I object.

MCNEES: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Sundborg?

SUNDBORG: Mr. President, this is a fairly basic matter also which I am sure is going to come before us in some other connection before we are through here. The practice in the Territorial legislature in the past has been that confirmation of appointments is by both houses in joint session assembled. I believe it has been a good practice. I don't believe that only the senate should have the right to express the people's will with respect to appointments by the executive, as it would be in this case, but that it should be by majority of all the members of the legislature and not just by majority of the members of the upper house.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President. I wish to speak in favor of the amendment. The situation can arise, as it has in the past, where in the makeup of our senate alone, there might be a majority of attorneys as members of the senate or there may be a sufficient number of attorneys that if they wish to exert certain influence, they could act as somewhat of a damper on confirmation of the lay members of that board. I believe that Mr. Sundborg's amendment is worthy of support.

BARR: I am not going to discuss it very widely, but I would say that I don't know what may happen in the future. The only thing I can do is judge by what has happened in the past. I have never been in the senate when there was a majority of attorneys. But I remember distinctly when there was a time when there were 14 attorneys in the house out of 24.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am a little concerned. I think the confirmation of the lay members of the judicial council should be the same as the confirmation procedure which will be uniform throughout our governmental structure. Now I don't know what the body has in mind or whether the constitution could contain a blanket clause to the effect that when the language "subject to confirmation" is used that means subject to confirmation by the members of both houses sitting in joint session. It seems to me that Mr. Sundborg made a good point, but I don't know whether we are doing the right thing by saying "subject to confirmation by both houses sitting in joint session" and later on come up with a different motive for the general operation of the state. I would like to hear from somebody.

MCNEES: May I ask Mr. Rivers if this might not be a general policy of the Convention to require the meeting of both houses

in joint session on issues of this magnitude or nature.

R. RIVERS: That would be fine if that were to turn out to be the fact.

HERMANN: I think the adoption of any such provision should wait upon the report of the Apportionment Committee and find out how big the house and senate are going to be. You might very well have the tail wagging the dog in this case.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's proposed amendment be adopted?" All those in favor of the adoption of Mr. Sundborg's amendment will signify by saying "aye", all opposed "no".

MCCUTCHEON: Call the roll.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 28 - Armstrong, Buckalew, Collins, Cooper, Davis. Emberg, V. Fischer, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNealy, McNees, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, Smith, Stewart, Sundborg, VanderLeest, White, Mr. President.

Nays: 25 - Awes, Barr, Boswell, Coghill, Cross, Gray, Harris, Hermann, Johnson, King, Knight, Laws, Londborg, McLaughlin, Metcalf, Nerland, Nolan, R. Rivers, V. Rivers, Robertson, Rosswog, Sweeney, Taylor, Walsh, Wien.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 28 yeas, 25 nays and 2 absent.

PRESIDENT EGAN: The "yeas" have it and so the proposed amendment has been adopted. Are there other amendments to Section 10? If there are no further amendments, we will proceed --

STEWART: Mr. President, may we have that read as it was amended?

CHIEF CLERK: "Line 22, page 3, strike the words 'The Senate' and insert in lieu thereof the following: 'a majority of the members of the Legislature in joint session assembled'."

PRESIDENT EGAN: Are there other amendments? We will proceed with Section 11. Mr. Coghill?

COGHILL: Mr. President, Section 10, I have an amendment that

I am contemplating on proposing. However, first I would like to hear discussion by the Convention as far as the subject of confirmation by the legislature in joint session assembled, as far as the attorney members of these boards are concerned. I feel that we are going to be setting up a precedent here that all professional boards will be chosen by their given profession and a minority will be picked by the nonprofessional group and confirmed by the elected members of the electorate for Alaska, but in turn the professions of the doctors, lawyers, and dentists and all the rest of them are going to have the chance to load the committee with professional people.

PRESIDENT EGAN: Mr. Coghill, the Chair has been lenient in allowing discussion even through there was no motion on the floor, owing to the fact that questions have been asked. The Chair will have to ask that these discussions be confined to matters before the Convention.

COGHILL: Well I'll submit a proposal then, Mr. Chairman.

CHIEF CLERK: "Line 18, page 3, after the word 'bar' insert a comma and add the following: 'subject to confirmation by the Legislature in joint session assembled'."

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

BUCKALEW: Objection.

COGHILL: I so move.

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconded Mr. Coghill's motion. Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "In Section 10, line 18, after the word 'bar' insert 'subject to confirmation by the Legislature in joint session assembled'."

PRESIDENT EGAN: Add a comma.

SUNDBORG: I wonder if I might ask Mr. Coghill if he would consent to a proposed change in his amendment which would not change the sense but I believe would be a little smoother. If on line 22, after the word "article" we change the comma to a period and then insert "both the attorney and nonattorney members shall be". It would then read, the new sentence, would say "both the attorney and nonattorney members shall be subject to confirmation by majority."

COGHILL: Mr. President, I consent to that with consent of my second because it does not change the intent of my amendment.

PRESIDENT EGAN: Mr. Coghill, it might be more in order if you ask that your original amendment be withdrawn and then submit it. There will be no confusion in the minds of the delegates when we vote on it, if that is what you are attempting to accomplish.

COGHILL: Yes, that's right. I will so move and ask unanimous consent that my proposed amendment be withdrawn.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Mr. Riley?

RILEY: I object for purposes of comment. It would appear to me to be far more expeditious to act on it as first offered. Otherwise we are going to introduce the complication of, do we rescind our former action to put the show on the road. This could all be reconciled in Style and Drafting later if Mr. Coghill's motion is adopted.

SUNDBORG: I agree with that, Mr. President, and withdraw my suggestion.

PRESIDENT EGAN: Mr. Sundborg then asks unanimous consent that his motion be withdrawn. If there is no objection it is so ordered and we have Mr. Coghill's original motion before us. Mr. McLaughlin.

MCLAUGHLIN: I presume Mr. Coghill submitted this motion merely for the purpose of getting this on the floor. Coldly and calculatingly, if this motion is passed you might as well tear up the whole proposal and provide for the election of juries, because then it would be more efficacious and more democratic. The whole theory of the Missouri Plan is that in substance, a select and professional group, licensed by the state, can best determine the qualifications of their brothers. The intent of the Missouri Plan was in substance to give a predominance of the vote to professional men who knew the foibles, the defects and the qualifications of their brothers. It is unquestionably true that in every trade and every profession the men who know their brother careerists the best are the men engaged in the same type of occupation. That was the theory of the Missouri Plan. The theory was that the bar association would attempt to select the best men possible for the bench because they had to work under them. If you require a confirmation of your attorney members you can promptly see what will happen. The selection is not then made by the organized bar on the basis of a man's professional qualifications alone. The determination of the selection of those people who are on the judicial council will be qualified by the condition, are they acceptable to a house and a senate or a senate alone, which is essentially Democratic or essentially Republican. No longer is the question based solely on the qualification

of the candidate for the bench. The question is, will those people whom we set up here on the judicial council, that we send from the bar, will they be acceptable in terms of political correctness? If political correctness enters into the determination of the selection of those professional members who are to be placed upon the judicial council, the whole system goes out the window. All you have is one other political method of selection of your judges. The theory, and it is the only way it can possibly work, is that the lawyers are put on there to get the best man and not to take a man on the basis of his politics. But if we require confirmation, then the material consideration to be made by the Alaska Bar Association is, are we sending our best representative -- no. But are we sending a good Democrat acceptable to both members to both houses or are we sending a good Republican acceptable to both houses. If we permit that determination to enter into our consideration, then in substance we should provide for an initial election or initial appointment by the governor or some other body. Qualifications go out the window as soon as you have confirmation. The theory on the lay members on the confirmation, they represent the public and they represent the predominant political thought. The theory on the lawyer members of the council, they represent the profession, they represent the best interests of the profession. They represent a desire to have the best judges on the benches. I beg of you, please don't vote for the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I want to heartily second the remarks of Mr. McLaughlin but also want to point out that the purpose of the draft as now written is to have a nonpartisan selection of these lawyer members, and the minute you adopt something like this, you are making a partisanship proposition out of it. We want that to carry through to a nonpartisan selection of judges, so I think our thinking is quite clear.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In bringing this up, I quite agree with both the Chairman of the Judiciary Committee and also the member. I believe that all of us here are working on committees real hard and we are trying to bring out good and concise thoughts. We are not trying to go to the extreme in our committee proposals, so that we will get a compromise on the floor. I don't think that is the intent. The purpose for this amendment is that I foresee that the nonattorney members of this board are going to be subject to all the ills of political skulduggery on the floor of the senate or the joint house assembled, and I see that if we are going to pick the judges on nonpartisan basis, that it should be left up to your representative of the government, the highest official in the executive branch which is your governor. That is the reason

why I voted for the amendment to strike that, the acceptance or confirmation by the senate. I think if we are going to accept some of them by the senate confirmation, we should accept them all. It is the precedent you are setting up here for boards on the professional level.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Coghill's proposed amendment be adopted by the Convention?"

ROBERTSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 4 - Coghill, Kilcher, Londborg, Mr. President.

Nays: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Absent: 2 - Doogan, H. Fischer.)

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

PRESIDENT EGAN: So the proposed amendment has failed. Are there other amendments to the section?

TAYLOR: I have one.

PRESIDENT EGAN: Mr. Taylor has a proposed amendment.

TAYLOR: Mr. President, I am proposing this amendment to Section 7.

PRESIDENT EGAN: Mr. Taylor offers a proposed amendment to Section 7. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 2, page 3, after the word 'State' strike the balance of the section and insert 'for at least three years and have been residents of the State for at least three years next preceding their respective nominations; provided, that additional qualifications may be prescribed by law.'"

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

SUNDBORG: Objection.

TAYLOR: I so move.

METCALF: I second it.

PRESIDENT EGAN: Mr. Metcalf seconds the motion of Mr. Taylor. Mr. Taylor?

TAYLOR:I would like to mention one thing. The matter was brought up and we have argued this thing quite thoroughly. I felt that it might be of the period of time that would elapse. Now in the last three years we have admitted perhaps 50 attorneys to the practice of law in Alaska, and it seems like there are going to be quite a number of them admitted each year from now on. Now this past year we had 25 who took the examination, the year before 19, so those men who in the past couple of years have taken the bar and have been admitted to the bar, in all probability by the time we achieve statehood will have the required residence of three years, and they have been practicing law for three years, which will make them eligible for the bench. It seemed the opinion of some of the proponents to eliminate the five-year period. It was through the fact there might not.be sufficient manpower, but I think that would be taken care of. Now, even putting the best light on it, we cannot anticipate we will have statehood for a year and a half or possibly more. I think I am being unduly optimistic when I say a year and a half. These men who are barred by time, that will be taken care of, as immaturity is always cured by the passage of time, and by three years we will have plenty of attorneys to pick for the judiciary. We feel there should be some restriction instead of dragging a man in from the outside and putting him on the bench, not knowing his qualifications or background, I think we should put at least three years because by that time there will be approximately 60 or 70 more lawyers in Alaska who will be judicial timber. I feel this amendment should be adopted.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I rise to speak against the amendment on the same basis that I rose to speak against the original article as it was originally turned out in the Judiciary Committee. Feeling that it is not a matter of constitutional law but one of legislative law, therefore I oppose the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Will you have the Chief Clerk read the amendment again?

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

CHIEF CLERK: "Section 7, page 3, line 2, after the word 'State', strike the balance of the section and insert, 'for at least three years and have been residents of the State for at least three years next preceding their respective nominations; provided, that additional qualifications may be prescribed by law.'"

PRESIDENT EGAN: The question is, "Shall Mr. Taylor's proposed amendment be adopted by the Convention?" Mr. Marston?

MARSTON: Mr. Chairman, I want to talk on this. I wish we would quit going back. We settled this. We are never going to get through.

TAYLOR: Point of order. He is not speaking on the subject.

MARSTON: We have passed on this. We have given our reasons.

PRESIDENT EGAN: Mr. Marston, under the circumstances, Mr. Taylor's point of order, if you say we have passed on this, will have to be well taken because we did not pass on the question that is before us at the present time.

MARSTON: No new subject matter is brought up here.

PRESIDENT EGAN: Mr. Marston, the Chair will have to hold that Mr. Taylor's point of order is in order because there is new subject matter here.

MARSTON: May I say I am opposed to this amendment?

PRESlDENT EGAN: That is right. Mr. Barr.

BARR: May I say I am in favor of this amendment? In answer to another member who took the floor a minute ago, he said that this was properly a legislative matter. I believe that certain qualifications should be specified by the legislature, but I believe that the constitution should state the basic law and preserve the rights of the people, and the people should be entitled to a judge who is properly qualified. That does not just mean qualified in the law. It means also qualified by various other types of experience, including experience in Alaska.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Taylor's proposed amendment be adopted by the Convention?" All in favor of the --

MCCUTCHEON: Call the roll.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 20 - Armstrong, Barr, Boswell, Coghill, Cross, Gray, Harris, Hellenthal, Johnson, King, Laws, McCutcheon, Metcalf, Nolan, R. Rivers, V. Rivers, Robertson, Sweeney, Taylor, Walsh.

Nays: 33 - Awes, Buckalew, Collins, Cooper, Davis, Emberg, V. Fischer, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee. Londborg, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 20 yeas, 33 nays and 2 absent.

PRESIDENT EGAN: And so the proposed amendment has failed to pass. Are there other amendments? Mr. Sundborg?

SUNDBORG: Mr. President, may I be permitted to address a question to Mr. McLaughlin?

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

SUNDBORG: Mr. McLaughlin, is it really necessary to provide at the end of Section 10 this language saying that the members of the judicial council "shall be compensated as provided by law"? It occurs to me that we have no such language, for instance, covering the compensation of the judges at all or of any other officials.

MCLAUGHLIN: There is provision specifically in the Act providing for compensation for the judges, and we did not want to make it mandatory, but we wanted to put it in there because we wanted to make it expressed that they could be paid for their services.

SUNDBORG: Is it your belief that if we did not have it in here that the legislature could not provide to compensate them?

MCLAUGHLIN: We are running close. Actually, I think the legislature, even if it were not in there, could provide for their compensation. I would prefer to leave it as it is, and if Style and Drafting so recommends, after discussion with members of the Committee, we might recommend --

SUNDBORG: As Chairman of Style and Drafting, I certainly would not, for myself, want to recommend such a thing as striking that out because I believe it is substantive.

MCLAUGHLIN: I would prefer on behalf of the Committee to leave it in.

PRESIDENT EGAN: Are there other amendments to Section 10? Are there amendments to Section 11? Mr. Hellenthal?

HELLENTHAL: Mr. President, I ask unanimous consent that the word "ex officio" be stricken in the fifth and sixth lines on page 4.

R. RlVERS: I object.

HELLENTHAL: I so move.

MCNEES: I second the motion.

R. RIVERS: The word "ex officio" means that that particular seventh member of the judicial council is the member of judicial council by virtue of the fact that he happens to be chief justice, and so that when the person who occupies the office of chief justice is changed the next chief justice, because he is chief justice, becomes a member of the judicial council, so I just think it is better to leave it in there.

PRESIDENT EGAN: Mr. Rivers, if I might ask a question, by specifically stating "ex officio" and not mentioning anything about his voting power, does that take away from him the right of voting except in the event of a tie?

R. RIVERS: No, he has full membership rights and the full vote at all times.

PRESIDENT EGAN: Where would that be definitely established?

R. RIVERS: I have seen it work through the Territorial government. Governor Gruening was a member of a half dozen boards and he was a voting member. I was an ex officio member of several boards. Now unless we say, "He shall not have the vote except in the event of a tie" ex officio member has full voting rights, so I like it the way it is.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That was not my understanding of an ex officio member. I doubt that an ex officio member, so designated, has voting rights. I would like to withdraw my objection and ask that the word "voting" be inserted after the word "seven" in line 6, which will clearly obviate my objection.

PRESIDENT EGAN: Do you ask unanimous consent that that be included in your motion, Mr. Hellenthal?

HELLENTHAL: Yes.

PRESIDENT EGAN: Without objection, it is included in the original motion.

TAYLOR: Mr. President, I am going to object for the time being. I cannot see the use of putting in the word "voting", "the seventh voting member", because of the fact that if he is a member of the board, he has to vote. Being a presiding officer he would vote last. In case there were four votes cast in favor of him there would be no necessity -- only in case of a tie. Now ex officio in no way or intent can mean a man is not entitled to vote, if he has an office, sometimes he cannot vote, he's merely presiding but that's got to be prescribed. If it isn't prescribed, why he votes. Now the word "ex officio" does not mean to take away any rights conferred upon a member of a committee or a commission. Ex officio means by virtue of an office, the office, not the man, is actually a man. It happens to be whoever holds that office is a member -- is a member of the board. That is all it means. I can't see the use of putting in the word "voting".

PRESIDENT EGAN: Is there objection to a one-or two-minute recess? If there's no objection the Convention is recessed for one or two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. What is the status of Mr. Hellenthal's amendment right now? Did you ask unanimous consent, Mr. Hellenthal, that your original amendment be withdrawn?

HELLENTHAL: Correct.

MCNEES: I withdraw my second.

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

HELLENTHAL: I ask unanimous consent that the word "voting" be included following the word "seventh" in line 6, page 4.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the word "voting" be included following the word "seventh" in line 6, page 4.

HELLENTHAL: Mr. President, I don't mean to be picayune but apparently in the Senate of Alaska as it is now constituted, the president who is the ex officio

member of boards is not entitled to a vote. Now Robert's says if the ex officio member is not under the authority of the society he has all the privileges including the right to vote, so the question is whether or not the chief justice under this proposal would be under the authority of the society, and I would interpret the society to mean there the seven-man supreme court. There is still a very grave question in my mind. One group here tells me that he is under the authority of the society. Another group says that he is not. If there is question why don't we leave the word "voting" in?

PRESIDENT EGAN: Mr. Hellenthal, I wonder if you would be acceptable to the proposition that this matter be turned over to the Rules Committee in conjunction with the Judiciary Committee and that they come to some determination on it and report at some later time.

HELLENTHAL: I am very happy with that suggestion.

PRESIDENT EGAN: If there is no objection Mr. Hellenthal's request will be held in abeyance until such time as a complete report is made on that subject to the Convention. Are there other amendments to Section 11 or 12? If not, are there proposed amendments to Section 13? Are there proposed amendments to Section 14? Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, may I read into the record so that the Convention will well know that under Section 13 we did not go into minute detail concerning the functions of the judicial council, but inquiry has been made whether or not the judicial council would make budgetary recommendations to the legislature. That is specifically inherent in these recommendations. Matters such as court structures would include budgets. Administration of the court would include budgetary recommendations to the legislature.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I would like to ask a question of Mr. McLaughlin. I would also like to have the answer read into the record. Is it intended that the judicial council shall also make studies and recommendations of the lower courts and see if they can get from our present system some considerable more semblance of order or procedure?

MCLAUGHLIN: That would be specifically intended under such a phrase as including such matters as court structure.

PRESIDENT EGAN: Are there amendments to Section 13? Amendments to Section 14? Are there amendments to Section 15? Are there proposed amendments to Section 16? Mr. Gray.

GRAY: Mr. Chairman, I would like to ask the Chairman of the Judiciary, in Section 15, where the judges, "...at the age of

70, on such retirement pay as may be prescribed by law, and shall render no further service on the bench, except for special assignments as provided by court rule." What do you mean by that phrase?

MCLAUGHLIN: That was intended. The presumption is that at sometime the Committee decided that age 70 is about the time that men may become subject to the infirmities of age and it would be just as well to have that as the arbitrary time at which they retire. As for special assignments, it is fair to presume that at some time in Alaska we will have a Mr. Justice Oliver Wendell Holmes who was quite effective at the age of 92 or we might have a Cardozo, where their services and experience would be of great benefit to the state, then the exception could be made to utilize those men for special assignments.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we often encounter occasions when the docket gets overly crowded and if you could recruit an experienced jurist who doesn't happen to be infirm, -- it's pretty handy to have him available, if he is willing to serve. Often times leave is granted to judges for particular persons and one of these men could be made use of during such periods.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Could I ask a question of Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection, you can direct your question.

COOPER: Mr. McLaughlin, again do I understand that in line 25 on page 5 and the first two lines on page 6, "The basis and amount of retirement pay for justices and judges who retire or are retired at an earlier age shall be prescribed by law." Does that mean that they can retire themselves at the age of 60 if they decide they want to go into retirement and that they will be provided with a form of retirement pay if they are the ones that elect to retire?

MCLAUGHLIN: That means that the legislature can determine exactly what retirement provisions are, that is what retirement is and they can make an allocation of one dollar a year or 30,000 dollars a year, but they shall lay down the rules as to what retirement is, and what constitutes it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to direct a question to Mr. McLaughlin.

PRESIDENT EGAN: Without objection, you may direct the question.

MCCUTCHEON: In other words, a mandatory retirement of 70 years does not obviate the possibility that the legislature may set a lower retirement age?

MCLAUGHLIN: That is true.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we have fixed a compulsory retirement age at 70. Reading of this article shows that the judicial council may recommend earlier retirement for judges who are infirm and may not have the capacity to continue performing their services. In some instances a person will get fairly stubborn and he will not resign. We have a forced retirement on account of infirmities prior to age of 70 based on action of the judicial council, or recommendation of judicial council, or if it happens to be a member of the supreme court it would be on the recommendation of a board of three persons appointed by the governor to investigate the matter and with retirement by the governor, but I think that the legislature could not retire judges on a compulsory basis earlier than 70 if we spell 70 in here.

MCLAUGHLIN: Mr. Rivers, the State of Maine -- I was answering Mr. McCutcheon, State of Maine has a provision that no provision for retirement as such, but it provides that if you are not off the bench when you are 70 you won't collect any pay. So in effect the legislature could provide if you are serving on the bench after the age of 65, their act concerning retirement benefits would be ineffective, that you would waive all rights to them and in that sense the legislature could so provide.

R. RIVERS: In that sense I will concur.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I would like to address a question to Mr. McLaughlin.

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

MCNEALY: Mr. McLaughlin, have you and your Committee checked into the number of states that do provide for retirement pay for state judges?

MCLAUGHLIN: We did check on it, but we left the matter entirely to the legislature. There was some discussion whether or not we should provide a definite mechanical or arithmetical figure, and the Committee wholeheartedly decided that was a

matter that should be left to the legislature. In terms of constitutional provisions for retirement, New Jersey retires at 70 without a right of special assignment. Connecticut, New York, New Hampshire at 70, Missouri at 75 and Louisiana at 80. They set them forth, I believe, in their constitution. The statutory limit for retirement age is generally set at 70. Hawaii for instance, under their constitution, retires at 70 under Article 5, Section 3.

V. FISCHER: I would like to know whether the term "retire" or "are retired" includes defeat at an election. For instance, assume that a justice has served for 25 years and then at the age of 68, he is defeated at the polls when he comes up for reconfirmation. Would he be precluded by the term "retire"?

MCLAUGHLIN: Mr. Chairman, these are curbstone opinions, but the legislature could determine that a justice who had served so many years and then was defeated for reelection could be retired and use the expression under the constitution and so provide for it. These are outside limits that we are setting on the activities of judges.

PRESIDENT EGAN: Are there other amendments to -- Mr. Hellenthal?

HELLENTHAL: I worry somewhat about the words "except for special assignments as are provided by court rule." It seems to me I have heard of abuses in this regard. Perhaps the word "temporary" should be inserted before the word "special". Here we will have the rule-making body, which will have a tendency to recognize that their mental abilities will continue unimpaired after 70. They will all be convinced of it in fact. They are going to make the rule and they might keep themselves on indefinitely under the guise of special assignments. I ask Mr. McLaughlin if the word temporary" might not preclude that possibility.

MCLAUGHLIN: Mr. Chairman, it is the belief of the Committee that that is mere legislation. The age of 70 was specifically set forth so there would be no embarrassment on retiring a person. If there is an abuse of the special assignment privilege, I might point out the legislature controls the purse strings and if it is abused, there will be no appropriation for the purpose. It is something that we should not necessarily anticipate or write into our constitution.

HELLENTHAL: I do not favor enacting legislation by cutting off appropriations and I therefore ask unanimous consent that the word "temporary" be inserted prior to the word "special" on line 24.

PRESIDENT EGAN: Line 24, on page 5?

HELLENTHAL: Yes.

PRESIDENT EGAN: You ask unanimous consent?

R. RIVERS: I object for a question.

PRESIDENT EGAN: Objection is heard. Mr. Ralph Rivers?

R. RIVERS: I would say it would be better to substitute the word "temporary" for the word "special" and not put them both in.

HELLENTHAL: I consent to that.

PRESIDENT EGAN: Then if there is no objection -- Mr. Davis?

DAVIS: I would object to that. I like it the way it is.

PRESIDENT EGAN: Your objection is heard. Do you so move, Mr. Hellenthal?

HELLENTHAL: I so move that the word "temporary" be inserted in lieu of the word "special" in line 24.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that his proposed amendment be to insert the word "temporary" prior to the word "special" in line 24.

JOHNSON: I object to the unanimous consent.

R. RIVERS: Did you say instead of the word "special"?

PRESIDENT EGAN: The Chair understood that Mr. Hellenthal had changed his mind but the Chair was probably in error.

HELLENTHAL: No, that incorporates Mr. Rivers' suggestion which was, as I interpret it, that "temporary" be substituted for the word "special" and I did not ask unanimous consent but merely moved that the change be made.

POULSEN: I second it.

PRESIDENT EGAN: Mr. Poulsen seconds the motion. Mr. Gray?

GRAY: I would like somebody to explain to me the difference between these two proposals.

PRESIDENT EGAN: Mr. Hellenthal, would you explain the difference?

HELLENTHAL: Yes, the special assignment is limited to a temporary one now, whereas under the former wording a special assignment could go on for ten years and could be used as a guise for increasing the tenure of the judges by the exercise of their own rule-making power.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I see what Mr. Hellenthal is driving at, but I am afraid the mere change of the word "special" to "temporary" would not accomplish his purpose because "temporary" is almost synonymous with "indefinite". It is an amount of time. If we are going to burden the constitution with such things, it is useless. Either we forget about the matter entirely or specify it further.

PRESlDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I realize that the cases are special and possibly unusual, but there have been many, many cases of very exceptional judges who were well beyond 70 years. I think it is unwise in the constitution to make it impossible for such judges to serve their state. After all, they have all of the experience of their years of service on the bench. Now personally I am against the 70-year retirement age, but the Committee has gone over that back and forth, one way or the other, and I am not going to raise an objection that way, but I would certainly like to see it provided in the constitution so that in the event we have a person who is physically and mentally capable to be a judge, and in the event we have crowded dockets and we need to assign somebody to help clear up the docket, that we have the power to do so. And if we say "temporary" that means, I suppose, just what it says -- temporary. You could not assign a man to do a job that needed to be done if it was something more than temporary. For that reason I like the language as is, "for special assignments".

PRESIDENT EGAN: Is there further discussion?

NOLAN: Question.

PRESIDENT EGAN: If not, the question is, "Shall Mr. Hellenthal's proposed amendment be adopted by the Convention?" All in favor of the adoption of the proposed amendment say "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. Are there other amendments to Section 15? Mr. Taylor?

TAYLOR: I have an amendment.

CHIEF CLERK: "Amend Section 15 by striking the following words: On line 22, page 5, 'at the age of 70'."

PRESIDENT EGAN: What is the pleasure?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment. Is there a second to the motion? Hearing no second --

HELLENTHAL: I will second the motion.

PRESIDENT EGAN: Mr. Hellenthal seconds the motion. The question is, "On line 22, page 5, shall the words 'at the age of 70' be deleted from the section?"

BUCKALEW: Question.

EGAN: All those in favor of the adoption of Mr. Taylor's proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes have it and the amendment has failed. Are there other amendments? Mrs. Wien?

WIEN: Mr. President, I move and ask unanimous consent that this Convention recess until 1:30 this afternoon.

PRESIDENT EGAN: Mrs. Wien asks unanimous consent that the Convention stand at recess until 1:30 p.m. Mr. Sundborg?

SUNDBORG: As announced yesterday, the Style and Drafting will meet at 12:15, in the lunchroom.

PRESIDENT EGAN: The Chair would like to state there will be no meeting of committee chairmen as had been previously announced. Miss Awes?

AWES: The Bill of Rights Committee will meet at 12:45.

RILEY: Subject to Mr. McLaughlin's views, such members of Rules and Judiciary who are free to get together during the noon hour should perhaps do so to resolve that one question we have heard.

PRESIDENT EGAN: The Rules Committee and Judiciary will meet during the noon hour. Mr. Nerland?

NERLAND: Mr. President, I request the members of the Finance Committee meet for just a few minutes immediately following recess.

PRESIDENT EGAN: The members of the Finance Committee will meet immediately upon recess. Mr. McNealy?

MCNEALY: Mr. President, I request a meeting of the Ordinance Committee, No. IV, at 12:15.

PRESIDENT EGAN: There will be a meeting of the Ordinance Committee at 12:15. Hearing no further committee announcements and no objection, then the Convention will stand at recess until 1:30 p.m.. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the delegates that we now have in the gallery the balance of the senior class of the Fairbanks High School. We hope that you will enjoy the debate, if any, that will occur here on the floor this afternoon. The Chief Clerk has a communication. If there is no objection it will be read at this time.

CHIEF CLERK: From the Northwestern Alaska Chamber of Commerce to Mr. George McLaughlin, Chairman of the Judiciary Committee. (The Chief Clerk read the communication expressing opposition to the combining of the Second and Fourth Judicial Divisions.)

PRESIDENT EGAN: The letter will be filed. Mr. Taylor.

TAYLOR: Mr. President, I think that the Chief Clerk should be instructed to send a letter to the Chamber of Commerce up there and tell them they have their wires crossed, that there is no such a proposal before this Convention. They seem to be quite alarmed about it and I think if we just send a wire, they will simmer down.

PRESIDENT EGAN: The Chair might ask the Chairman of the Judiciary Committee, what have you done about this?

MCLAUGHLIN: Mr. President, on receipt of the original telegram which referred to this letter, which was the letter to follow on the day of the receipt of the telegram, I transmitted a letter on behalf of the Judiciary Committee assuring them that there was no intent in the present committee proposal to abolish any court house in Nome or deprive Nome of any privileges that it now possesses, and I am sure that the representatives, Mr. Walsh from Nome and Mr. McNees from Nome, and possibly Mr, Londborg, have transmitted copies of the committee proposal to the Northwest Chamber of Commerce,

WALSH: I might say that Mr. McLaughlin is correct. As soon as the Judiciary Committee proposal came on the floor I sent a copy that night. They had apparently not received it at the time this letter and telegram were sent so that is in their hands now.

PRESIDENT EGAN: Is there any amendment before us at this time?

CHIEF CLERK: The one that was referred to the Rules Committee.

PRESIDENT EGAN: Mr. Riley, do you have a report to make on that particular question relative to the meaning of "ex officio"?

RILEY: Subject to any revision that may come from Judiciary, we have not met together, although there has been some conference back and forth during the noon hour, the Rules

Committee was of the view that there was no foreseeable hazard in leaving the language as it is, that "ex officio member" was membership in every sense. However, I have since talked to Mr. Hellenthal at some length and feel that probably because of our library's limitation, that further study might be made of the matter while this is still in second reading, and in all likelihood it will be in second reading when we refer it to Engrossment and Enrollment.

PRESIDENT EGAN: If there is no objection the matter will be deferred until a proper understanding can be reached. Mr. Sundborg?

SUNDBORG: Mr. President, the manager of the cafeteria here has said that if any considerable number of delegates plan to stay for dinner this evening, they would like to know that in advance. The cafeteria is open each evening until 7 o'clock. Anybody through the line by 7 is fed. The meals cost $1.75 in the evening and they are similar to the noon meal. The meals are quite good. I wonder if we could settle now so we could notify them whether we will be eating here this evening.

PRESIDENT EGAN: Could the delegates by a show of hands indicate how many would care to eat here this evening. Approximately 18. We might tell them we would have as many as possibly 20. Mr. Coghill.

COGHILL: As long as we are showing hands, I wish we could have another show of hands as far as the show is concerned.

HILSCHER: Mr. President, could you look in the crystal ball and tell us what time we will be through here? That might determine it.

PRESIDENT EGAN: That would really take a crystal ball all right, Mr. Hilscher. Mr. Sundborg?

SUNDBORG: Mr. President, there is another item on our calendar after the item on the judiciary, so I would suggest, if we are so inclined, that we would have enough material on the calendar to keep us here until 6 o'clock.

PRESIDENT EGAN: If that is the feeling of the delegates it is certainly all right with the Chair. Mr. Davis.

DAVIS: Mr. President, since there was so much discussion about the necessity of getting committee reports out of the way, I would like to suggest that we finish up the present proposal and then adjourn to the committee meetings and hold over the other articles and other order of business for tomorrow.

PRESIDENT EGAN: What is the pleasure of the delegates relative to Mr. Davis's proposal? Is there a motion before us? Would the delegates who plan to attend the movie tonight please indicate by raising their hand. Well, it is better than half of the delegates. Mr. Ralph Rivers.

R. RIVERS: Mr. President, may it be understood that the delegates may bring their wives?

PRESIDENT EGAN: That Is generally understood or should be. Mr. McNees.

MCNEES: We were told by Dean Beistline that there are seats for 100 and that your wives are welcome.

PRESIDENT EGAN: It appears, Mr. Coghill, there will be quite a group attending the movie this evening. If there is no further discussion, we will continue with the proposal before us. Section 17, are there any amendments to Section 17? Are there any amendments to Section 18? Mr. McNealy?

MCNEALY: Mr. President, through the Chair I would like to ask one question in regard to Section 18, of Mr. McLaughlin. The section states that Mr. McLaughlin, that no justice or judges of the superior court while serving may practice law. Would that include his partnership in a law office? Say one member of a firm became a judge, would that mean that he would still be able to take profits from the firm itself?

MCLAUGHLIN: I am not an expert on judicial ethics, but I believe that would preclude his taking any profits from any existing law practice from the time that he assumed the bench. Of necessity it would. He would be practicing law if he were associated with anyone else and deriving any profit from it. We are merely incorporating in here one of the canons of judicial ethics. It was deemed essential by the Committee.

PRESIDENT EGAN: Is there any proposed amendment to Section 18? Mr. Sundborg?

SUNDBORG: May I address a question to Mr. McLaughlin?

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

SUNDBORG: What would the situation be If the judicial council wanted to propose that one of the members of that council be nominated for judge? Could they do so and the man would not have to resign from the council until and unless the governor should appoint him a judge, when of course he would be barred because it says here that no member of the judicial council may hold a position under the state.

MCLAUGHLIN: Technically, I think the judicial council could

designate one of their own members if qualified. His resignation would have to take effect immediately upon his selection by the governor.

PRESIDENT EGAN: If there are no amendments, we will proceed to Section 19. Mr. McNees?

MCNEES: I have an amendment to Section 19.

PRESIDENT EGAN: The Chief Clerk may read the amendment.

CHIEF CLERK: "Section 19, page 7, line 2, that all of line 2 be deleted and the following be introduced: 'meeting in joint session'."

PRESIDENT EGAN: What is the pleasure of the delegate?

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

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

COLLINS: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

HURLEY: I second the motion.

PRESIDENT EGAN: Mr. Hurley seconds the motion. The Chief Clerk will read the amendment again.

CHIEF CLERK: "Page 7, line 2, strike line 2 and insert 'meeting in joint session'."

MCNEES: May I read the full section as it would appear, Mr. President?

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

MCNEES: "The Supreme Court shall make and promulgate rules governing the administration of all courts of the State. It shall also make and promulgate rules governing practice and procedure in all civil and criminal cases in all courts, which rules may be changed by the Legislature only upon a two- thirds vote of the members meeting in joint session."

RILEY: Is there a second?

PRESIDENT EGAN: Mr. Hurley seconded the motion.

RILEY: Mr. President, just a question to address to Mr. McNees.

In view of the fact that that is a legislative process, Mr. McNees, does that have any unicameral significance?

MCNEES: Possibly.

PRESIDENT EGAN: The question is, "Shall Mr. McNees's proposed amendment be adopted by the Convention? Mr. Sundborg?

SUNDBORG: Mr. President, I want to get clear what the meaning would be. As I read it now it would require a two-thirds vote of the senate and a two-thirds vote of the house in order to change any rules of the procedure which had been promulgated by the supreme court. Is that correct?

MCLAUGHLIN: That is not correct. At the moment as it stands, not amended, it reads "only upon two-thirds vote of the members elected to each house", which is a little stronger than the amended provision. The amended provision does not require two-thirds of the elected members of each house to concur. As it presently stands, two-thirds of the elected members must concur, and Mr. McNees has dropped the word "elected" members from his amendment.

SUNDBORG: Mr. McLaughlin, does the wording "to each house" not suggest to you, and I think to all of us, that the vote would have to carry at least two-thirds of the house and at least two-thirds of the senate and not be a two-thirds vote of the total membership of the two bodies. That is what it now provides. If we adopt the change suggested by Mr. McNees, a two-thirds vote of the total number of house and senate members would be all that is required to change the rules.

MCLAUGHLIN: That is right.

R. RIVERS: A change in these rules the way it is now written would require the legislative process. It would be a bill introduced in either house. It would go through the regular legislative process of a bicameral legislature. This is strictly a legislative matter. If the legislature acts, if any serious thing came up that we can't foresee, this gives some flexibility for changing those rules. They count the votes to see if you have a sufficient vote in the house to pass the house and a sufficient vote in the senate to pass the senate, but inasmuch as this is of a strictly legislative character and we have a bicameral legislature, there is no reason why they should convene in a joint session here and become a unicameral legislature for this particular subject matter. The only purpose joint sessions are used is for confirming appointments.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, this matter here is nothing more

than we have already adopted on page 3 in line 22 where we say "in joint session". This matter here is identical in its context. I would say it is not necessarily a legislative matter. It's a matter whether or not the legislature approves of the rules that have been adopted by the judicial council. If they disapprove of one rule, they could do it in joint session just as well as they could in individual session.

R. RIVERS: The rules are the law, unless the legislature by a two-thirds majority changes those rules. There is no appointment until the confirmation takes place under this confirmation power. Under this, the rules are the law until they are changed. This takes the action of a legislature. My distinction still holds, I contend.

TAYLOR: I feel Mr. Rivers is absolutely right in this matter. This is a matter of legislation, and these rules and regulations which should receive the same treatment in the same manner as a bill. They go in for ratification, and I think that we could all see the endless discussion that would take place if the rules as promulgated by the supreme court with the help of the legislative council or the judicial council, which could possibly be reams and reams of paper. I know the federal rules of procedure take up several volumes. We would sit there in joint session for days going over these rules as to enact some law in which we change them or strike some of them out. The matter should be that each house act upon them independently.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think that Mr. Taylor has argued very well in favor of this amendment. These rules that may fill volumes and volumes certainly can be dealt with much more expeditiously if they are not to be dealt with in two separate houses but in one house that can see eye to eye on that matter. But it certainly cannot be compared with ordinary legislation, since two-thirds majority vote is required. It has more of the character of a referendum, of the rules, promulgated by the supreme court, so that in that respect I think it Is not to be compared with average general legislation, and I am in favor of the amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am not in favor of the amendment. I think that throughout the United States, and particularly with respect to the supreme court of the United States, where the Congress has seen fit to put the rule-making power, most of the rule- making power is vested throughout the country in the supreme court of a particular state. This is done largely because the courts are familiar with practice and procedure and are much more capable of setting up good conservative and concise rules

of practice and procedure governing the operation of their courts. They are much better fitted to do that, and certainly to dump the matter into the hands of the legislature as purely a legislative proposition, would conceivably slow up the litigation and the expeditious handling of litigation to the detriment of the litigant. It seems to me, Mr. President, that if this amendment is adopted, it will weaken the provision very materially because as it now stands, the legislature by two- thirds vote of the members elected to each house must vote to change a rule. By that is meant, as I see it, that it would take a full two-thirds of the entire membership to which each house is entitled. If you put in the amendment as suggested, then a bare quorum could be present, which would be less than the 25, let us say, members of the senate. A bare quorum could be present and two-thirds of the quorum present would be able to change the rule which is a far less stringent requirement than the proposition that we have set forth. This matter was discussed very considerably in the Committee, and the unanimous opinion of the Committee was that the rule- making power should be left in the courts and that those rules should be held inviolate as much as possible except that on instances of this kind where two-thirds of the entire membership of each house might vote to make a change. But we discussed that matter very carefully. We compared it with many other constitutions, and the consensus was that this was by far the best method of procedure. I believe that if we should adopt this amendment now, we will very materially weaken our judicial system.

BUCKALEW: Mr. President, could I ask Mr. McLaughlin a question?

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

BUCKALEW: I read this Section 19, I don't know whether, is the legislature required to adopt the rules drawn by the court or only do they have the power to amend the rules?

MCLAUGHLIN: The legislature has the power to amend the rules by a two-thirds vote. If you desire I will give you the history 01 other constitutional provisions and the thinking of the Committee on it.

BUCKALEW: Well my question is then, that the rules are not adopted by the legislature. I mean, when the rules are drawn up, the legislature doesn't have anything to do with it?

MCLAUGHLIN: The legislature has nothing to do with it. As a matter of fact, this is a modification of the State of New Jersey. In its provision it has an arbitrary rule-making power (Article 6, Section 7, Subdivision l) not subject to be overruled by the legislature. That was by judicial interpretation. Hawaii has a similar article to New Jersey's (Article 6,

Section 6) and that is, no veto. That is the absolute rule- making power vested in the supreme court. New Jersey and Hawaii have an absolute rule-making power vested in the supreme court. Missouri has a more limited rule whereby the rules can be upset by the legislature. The Committee did not desire to follow the New Jersey rule where you have an absolute rule- making power by the court, for fear that there might be at some time or another, an arbitrary excess, and it was the belief of the Committee that there should be some check by the legislature, but the Committee was wary of the practice in most states that when attorneys discovered that the rules work to their disadvantage in certain types of cases, they promptly tried to have the rules amended by the act of the legislature. One reason why we put in the provision requiring two-thirds of the elective members of each house to vote upon it separately was the desire to prevent actions or revisions of the supreme court rules while in the heat of passion. And in substance this amendment, and I think the Committee agrees with me, does water down the protection the supreme court has from hasty impromptu action in revising its rules. We desire to give the right, leave vested in the legislature the right to amend, but we desire to curb it because of prior experiences in other states.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, may I address a question to Mr. Johnson or Mr. McLaughlin.

PRESIDENT EGAN: If there is no objection.

MCNEES: Would it remove the objections of the opponents of this amendment if we were to insert the word "elected" ahead of the word "members", the last word in the first line?

MCLAUGHLIN: I, cannot speak for the Committee, but I can point out this. When you have a senate which might be small and a large house, then the effectiveness of separate action by the senate is lost when you have a combined vote, and so it does water down. No matter even if you leave in the word "elected" It does water down the protection which the Committee felt the court should be accorded in sustaining its rules.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me that the terminology of this section, in the light of Mr. McLaughlin's argument, is self-stultifying. In other words, they wish the supreme court to set up a list of rules for the operation of all the courts. They don't wish the legislature to enter into it except on certain stipulated fashions, but once the material is before the legislature there is nothing in the world to stop the legislature from entering into the rest of the

document. It would appear to me that if members of the bar association would like to have this tightened up a little bit* that we would be better to adopt the straight supreme court rules and leave off the legislature, because once you put it on the floor there is nothing to bar the introduction of new material by amendment or addition.

MCLAUGHLIN: We understand that possibility but we still felt

the legislature should have some say to prevent arbitrary action by the supreme court, but the say should be limited by this two-thirds vote of the elected members of each house.

PRESIDENT EGAN: If there Is no further discussion -- Mrs.

Sweeney?

SWEENEY: Mr. Chairman, I want to say a few words In opposition to this amendment. This is but the beginning of articles in our proposals which are going to call for a vote by the legislature sitting as one body. As a member of the legislative branch I think we have it three or four times in our proposal, and I intend to put in the minority report.

MCNEES: Point of order, Mr. President.

PRESIDENT EGAN: Mrs. Sweeney is coming around to the matter at hand.

SWEENEY: I do not believe that this should be changed as Mr. McNees wants it for the reason that it appears that our house is going to have at least 40 members, our senate may be 20, and the house will then have a two-thirds of the total members to which the legislature is entitled. I am going to fight it on that basis. I want it left so that it will be a vote of each house, not the total membership sitting as one body.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, It seems to me that some of the members are overlooking the fact that this is not such a thing as confirming an appointment. This means the introduction of a bill into one of the other houses and its progress through both houses. Now it is unheard of for both houses to meet to vote on a bill. Sometimes they do on a report but not on a bill, and it just is not a practical way to approach the matter. You can assemble them together for confirmation because that is the only thing at issue. But your bill is introduced, it has to go through the one house, through its committees, etc., get passed by a two-thirds vote and go on into the other house. The action has to be separate if it is treated as a bill, and it has to be a bill if it changes the rules.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, believe me, I can't see one word in this Section 19 that says that anything that changes the rules has to be a bill, not a thing that says It has to be a bill.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am in a peculiar position of agreeing with both sides here. It has emerged that the matter is one of legislation. I agree with that, I think the matter is one of legislation. Whether a bill is introduced or not it is going to have to be introduced to change that rule, I think. However, I am not familiar with very many bills requiring a two-thirds majority of both houses of the legislature elected to the office, and if this matter is legislation as it has been urged that it be treated as legislation, then I find myself as having to favor the amendment because it takes out the word "elected" which I think does not belong in there. So I have to vote for the amendment on that ground.

R. RIVERS: The reason the word "elected" is in there is to distinguish between whether you must have a two-thirds vote of the entire membership to which the body is entitled or whether you mean a majority of those that are present. Now if we did not say the "elected members" then you would be saying by a two-thirds vote of the legislature acting, I mean to say separately, or a two-thirds vote of the members of each house. That leads to ambiguity. Does that mean a total membership to which each house is entitled or does that mean two-thirds of the majority which happens to be present and voting? We stuck that word "elected" in there simply to clear up an ambiguity. So when you say two-thirds of the people elected to each house you know that means two-thirds of the total membership to which the body is entitled. If you knock out the word "elected" then you have an argument on your hands as to what is meant.

NORDALE: Could I ask the President a question?

PRESIDENT EGAN? Mrs. Nordale?

NORDALE: Is it true that in the legislature, when it says "a majority", doesn't that mean a majority of all the votes to which a house is entitled or only those present?

PRESIDENT EGAN: Those present, except in the Organic Act it states that in the final passage of a bill It takes the majority of those members to which the house Is entitled. Ordinarily, the majority is a majority of those who happen to be present.

TAYLOR: I think some of the members that are advocating the passage of this amendment are overlooking the fact that the

Territorial government I believe, will be consisting of three separate branches with equal powers and duties and obligations. Now in this case we have the supreme court of the state in promulgating rules for the administration of the courts. Now that is an act of law. That is conferred upon the supreme court or upon the judiciary system — the right to make the rules. Now, do you think it would be right for the legislature, which is just another branch of the government, to come along and by a bare majority and say "we are overturning what the other branch of government is doing." I think it should require a two-thirds vote of the membership to which each of the houses should be entitled. Otherwise, the judiciary cannot overturn anything that the legislature does unless it is unconstitutional. But here we are giving the legislature the right to set aside the rules and the regulations that are conferred upon the judiciary by the constitution. And I think in a case such as that, it would only be an extraordinary case in which I think the legislature would want to set aside or nullify or change a rule. I think it should be left just exactly the way it is. I can see no useful purpose in the amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the amendment offered by Mr. McNees be adopted?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. Are there other amendments?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading of the amendments.

CHIEF CLERK: "Amendment by Mr. Buckalew to Section 19, page 6, line 25, after the word 'court' strike the comma and insert a period and delete the remainder of the sentence,"

BUCKALEW: Mr. President, according to Rule 19 the legislative body never acts on the rules at all. The supreme court or the court adopts the rules and they start using them and then as an afterthought, they are going to give the legislature —

PRESIDENT EGAN: Mr. Buckalew, are you moving the adoption of the amendment?

BUCKALEW: I move the adoption of the amendment.

TAYLOR: Unanimous consent is asked.

MCCUTCHEON: I second the motion.

V. RIVERS. I object.

PRESIDENT EGAN: Objection is heard. The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Explaining my objection, I want to say that this has been explained to us by the Chairman of the Judiciary Committee as being an added safeguard and safety valve against the abuse of the rule-making power. I see no reason why the two-thirds majority should not be allowed to stay in and prevail as set up in the original draft. It has been discussed at length in the Judiciary Committee, and the members of that Committee felt that it was a safeguard based upon what he has told you to be the precedent in other states. I see no reason to strike the possibility of the legislature, by a two-thirds majority, overruling some or one rule maybe set up by the courts.

BUCKALEW: I am not too interested primarily in what they do in the other states. I can see the experience that we have had by bringing the courts into the legislature and It seems to me that this particular provision would just cause a lot of trouble and I don't think we need that check on the type of judiciary that we are going to set up, and I think if there was anything wrong with the rules the courts would be the first party to act. Then if they did not act it would get down to the point where it would be a political question of whether or not they change the rule. It seems to me that the result would probably be one on occasion to discredit the courts and the judges, and if we don't take that power I don't think there will ever be a necessity for the legislature ever desiring to change the rules. I think it is something peculiar to the courts, and I think that the judicial article as drawn will probably give us a competent judicial system, and I don't think we need to have any cause to worry about the rules.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Buckalew's proposed amendment be adopted?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no".

MCCUTCHEON. Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 13 - Awes, Buckalew, Coghill, V. Fischer, Hermann, Hinckel, Hurley, McCutcheon, McNees, Sundborg,

Taylor, VanderLeest, White.

Nays: 4 l - Armstrong, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Emberg, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 1 - H. Fischer.)

CHIEF CLERK: 13 yeas, 4l nays and 1 absent.

PRESIDENT EGAN: So the proposed amendment has failed. Mr. Coghill.

COGHILL: Mr. Chairman, I move to reconsider my vote tomorrow morning. I voted yea and on the losing side.

PRESIDENT EGAN: You can't move to reconsider if you voted on the losing side. You have to vote on the affirmative side. The motion has failed. Are there other amendments to Section No. 19 or to the proposal?

CHIEF CLERK: From Mr. McLaughlin.

MCLAUGHLIN: Mr. President, may that be deferred until we consider Section 20?

PRESIDENT EGAN: Are there amendments to Section No. 20? If there are no amendments to Section No. 20 then the proposed amendment may be read by the Chief Clerk again.

CHIEF CLERK: "Add Section 21, 'Judicial divisions shall be established by law.'"

MCLAUGHLIN: I so move that that be added to the proposal.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the amendment, Mr. Robertson seconds. Mr. Davis.

DAVIS: Was it your intention to use the word "divisions" or "districts"?

MCLAUGHLIN: Mr. Davis, on reconsideration I decided to make it "divisions" because the expression "divisions is used in Section 20, and it might make some complications if we added the expression "districts" in there.

DAVIS: I think that was different.

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

RECESS

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

MCLAUGHLIN: Mr. President, I have amended my proposed motion to read "Judicial Districts 21. Judicial Districts shall be established by law."

PRESIDENT EGAN: Is there objection to Mr. McLaughlin amending his proposed motion?

R. RIVERS: I object.

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

McLaughlin?

MCLAUGHLIN: I so move.

R. RIVERS: Is that a motion to amend?

MCLAUGHLIN: I am just changing it.

PRESIDENT EGAN: It has to be a motion to amend as we already have your other motion before us.

MCLAUGHLIN: I now move to amend my original amendment to read, "Judicial Districts (marginal heading) 21. Judicial districts shall be established by law. In substance I have stricken the word "divisions" and substituted the word "dis-tricts".

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. I believe it is already on the Chief Clerk's record as having been made, Is that not correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to direct a question through the Chair to Mr. McLaughlin. I wonder if the advisability of the legislature establishing the judicial districts as against the supreme court setting up the areas of authority for the various courts. Is it not more advisable for the judiciary who is acquainted with the load factors of the various

areas, etc., to create those various districts rather than by legislative law which may be more subject to politics?

MCLAUGHLIN: The reason for the introduction of Section 21 was the concern of some members that they might be deprived of districts or there might be an attempt by this proposal to do away with court houses in certain areas. Frankly, it was not the Intent of the Committee. We don't believe that the bill proposes to do away with it, but to satisfy their objections we specifically provided that judicial districts should be established by law. Inasmuch as the legislature holds the purse strings they can in substance determine where the judicial districts are, for practical purposes. We felt that the legislature could act wisely on the matter and particularly in view of the fact that it would have the very persuasive recommendations of the judicial council on the subject. It was a matter we felt should be left to the legislature and could be changed from time to time. I know of no state where the judicial districts are in substance in the constitution provided, to be described by the supreme court. Normally the burden is in the constitution, they set forth specifically what the districts shall be, and it Is impossible to change them.

R. RIVERS: May I explain my objection? In Section 20 we refer to the divisions of the court, or I guess it was Section 19 — no 20. Under this structure we would have a superior court of Alaska. That superior court would have jurisdiction over the entire Territory. It is going to have to be broken up into areas. Now you can call those areas "districts" or you can call them "divisions" of the superior court. There is no question but what there will be an area — jurisdictional area down in Southeastern, with a judge or two judges.

There will be one here, one at Nome, perhaps one at Anchorage for headquarters. We might have a fifth judicial area which will have another judge or a sixth as time goes on. In any event though, it is still one superior court and those areas, the judge in each area will be able to issue process which will cover the entire Territory. After we get to be a state, Alaska is going to become a federal district with one district judge and a district marshal and a clerk, etc. This is going to be the district of Alaska, and that federal court is going to be a federal district. If we have judicial districts in Alaska to represent these areas I am talking about, each one having a judge or two judges or three judges, then we are going to have two district courts and people are going to talk about the district court and how are you going to know whether they are talking about the state district court or the federal district court? Now "divisions" Is a division of that one main court, the superior court. Why not use "divisions" and distinguish our courts from the federal district court? We've got it in one section already, we know what we're talking about, why not stick with the word "divisions"? That is the

reason I oppose this business of sticking in the word "dis-tricts".

PRESIDENT EGAN: Mr. Davis.

DAVIS: I think we have already taken care of all Mr. Rivers' objections by calling the trial court the superior court. Now the state where I grew up had exactly the situation that Mr. Rivers has mentioned. We had a state district court or rather state district courts and we had a District Court of the United States for the State of Idaho. I don't see any great confusion there, but it seems to me we are taking care of this just the way we should, if we follow Mr. McLaughlin's suggested amendment. We have one superior court, that court has various divisions but those divisions sit in districts. They don't sit in divisions, they sit In districts, and I believe that we are doing just exactly what we should do here in this proposed Section 21, to say that the legislature shall set up judicial districts.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. Chairman, I would just like to cite another example that leads me to believe that we are on the right track by using the language that Mr. McLaughlin has used in his amendment. Calling attention to the State of Washington, which has a district court for the State of Washington, they have an Eastern division setting at Spokane, a Western division setting at Seattle, but also Washington when they established their state courts, also established judicial districts and of course at that time they would take possibly two or three counties. I know in one instance, an uncle of mine was the superior judge a good many years in the judicial district in Eastern Washington, which included the counties of Okanogan and Douglas and they went right down the line. Sometimes there were three counties in the judicial districts. At the same time there were two federal district courts in the State of Washington. I have never heard of anybody who got confused and got into the wrong court.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, in answer to Mr. McCutcheon's objection, it occurs to me that if we leave this matter In the hands of the legislature rather than to spell it out in the constitution we won't run into the difficulties that they are now experiencing In the State of Florida, where as I understand it, the constitution spelled out the judicial districts and the number of courts to be established and the number of judges and limited all of those things, and now In large centers of population where the court work has become so heavy that another court is necessary, It requires an amendment to the constitution to be passed before they are able to go

ahead and set up another court under the same judicial system. So It seems to me that by adding Section 21 and leaving the other provisions as they are, and up to the legislature that we have given enough leeway to avoid the possibility of an amendment to the constitution in order to create another court rather than by the simple expedient of having the legislature do it.

MCCUTCHEON: I would like to clear up the matter of my objection here. It was merely a question I think, directed to Mr, McLaughlin and it did not concern with the establishment of any division or district of any type in the constitution. It was merely to leave up to the authority of the supreme court to establish such sections as was necessary.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask a question of the mover of the motion. By this broad terminology, if you say the legislature shall establish court districts, just what extent of authority would that grant? Would that grant them the authority to name an area in which they would specify a central town where the court would be established, whether they would specify how many judges would be resident judges there? I see in the other part of the act that the supreme court could make temporary disposition of judges. What is the extent you intend to cover with this particular amendment? How broad an interpretation would we have to assume it had when we're voting on it?

MCLAUGHLIN: The legislature could, the creation of judicial districts would imply that the legislature can say that a justice of the superior court shall sit at such and such a place and hold regular sessions of court at such and such a place. That would be subject always to the right of the chief justice of the supreme court to assign them elsewhere to take care of the burden of duty. The presumption is that the legislature would designate those courts where they are most needed, but they could change it from time to time as Is required.

PRESIDENT EGAN: The question is, "Shall Mr. McLaughlin's proposed amendment to the amendment be adopted by the Convention?" All those In favor of the adoption of the amendment to the amendment will signify by saying "aye", all opposed by saying "no". So the proposed amendment to the amendment has been adopted. The question now is, "Shall the proposed amendment, as amended, be adopted by the Convention?

V. RIVERS: Mr. Chairman, there are two or three things that I would like to touch upon before we continue it in second or move it into third reading.

HELLENTHAL: I rise to a point or order.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal. We still have the original amendment, Mr, Victor Rivers.

V. RIVERS: Oh, I didn't know it was going to be offered as an amendment, I thought we were voting on the original motion.

MCCUTCHEON: In order to clarify the situation does not the amendment amount to the complete Section 21 as composed by Mr, McLaughlin?

PRESIDENT EGAN: That is correct. Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to the amendment.

PRESIDENT EGAN: Mr. Sundborg offers an amendment to the amendment.

CHIEF CLERK: "Section 21, after the word 'established', strike the balance of the section and insert 'by the Supreme Court, subject to change by the Legislature in the manner provided in Section 19.'"

PRESIDENT EGAN: Will the Chief Clerk now read the proposed amendment as Mr. Sundborg seeks to amend the amendment.

CHIEF CLERK: "Judicial Districts — Section 21. Judicial districts shall be established by the supreme court subject to change by the legislature in the manner provided in Section 19."

PRESIDENT EGAN: Did you so move?

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

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent. Is there objection?

JOHNSON: I object.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Johnson objects. Mr. White seconds Mr. Sundborg's motion. The question is now open for discussion. Is there discussion on the question of the adoption of the amendment to the amendment? Mr. Sundborg?

SUNDBORG: Mr. President, in Section 19 we gave the supreme court generally the power to make and promulgate rules governing the administration of all courts of the state. Section 21 would have, if it stood as Mr. McLaughlin proposed it, taken away from the supreme court the right to say what, and how the

state should be divided into districts for the purpose of administration of justice, which I believe is not proper. I think the legislature does not know, as well as the supreme court knows, how the state should be divided for the purpose of establishing court districts. But I believe also that the legislature should have just as much to say about that as it does about any other matter of administration of the courts.

The general jurisdiction which it has is provided in Section 19, and if the amendment to the amendment, which I now propose, should be adopted and Mr. McLaughlin's, amendment then be adopted, the situation would be that the supreme court could draw the lines on where the districts for court purposes should be in the state, and that if the legislature did not like that for any reason it could, by a two-thirds vote of each house, override the supreme court and provide what it desires. I don't believe that the legislature should be given that right initially on a mere majority vote in a matter which is not truly a legislative matter but is a court administrative matter.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that the amendment as proposed by Mr. Sundborg is a good amendment, and to disabuse the minds of anybody that might believe that these are districts or divisions such as now in existence in the Territory of Alaska, they are not. They are only designated, they would only be designated by the court, the supreme court, who had knowledge of the case loads in the various divisions where most of these cases emanated from and what would be the greatest convenience for attorneys, litigants, etc., connected with the business of the courts, and it would not be a voting precinct or a district in which you would say certain things would take place. It would only be for the purpose of the administration of the law by the courts and for no other purpose. It is an arbitrary distinction that a court setting in this division or this district would be the limit of the jurisdiction or the use of that court. I think it would be perfectly in order.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, my objection to the amendment stems from the fact that I believe under the system as it is proposed in Section 21, that is by leaving it to the legislature, the matter of establishing judicial districts could very well at some time or other involve a question of politics and if you leave it entirely to the supreme court, it is conceivable that political pressure could be brought to bear on the supreme court. Maybe that would not happen, but it is a possibility, and it strikes me that there should be as little possibility of that in our court system as we can possibly make. Now I feel that by leaving it as it is, by leaving it up to the legislature, should any one area feel they are not being properly

taken care of by judicial division, they have the recourse of going to their members of the legislature and asking for some remedy, but if it is left entirely up to the supreme court, then you are subjecting three judges to political pressure when it is our desire under the entire system to have that court free from such pressure, if it is at all possible to do so. I don't believe the amendment adds anything, and I think it takes away from the legislature a right they ought to have.

R. RIVERS: I want to second Mr. Johnson on that. Lots of little communities with a lot of pride want a courthouse and they want a judge. Everytime there is a big clamor for some new district they would be going and bothering the supreme court judges. I say leave it with the legislature, and I am going to vote against this amendment.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's proposed amendment to the amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed say "no".

SUNDBORG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 23 - Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Hilscher, Lee, McCutcheon, McNees, Marston, Nordale, Peratrovich, V, Rivers, Rosswog, Sundborg, Taylor, VanderLeest, White, Mr. President.

Nays: 31 - Armstrong, Awes, Barr, Boswell, Collins, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Poulsen, Reader, Riley, R. Rivers, Robertson, Smith, Stewart, Sweeney, Walsh, Wien.

Absent: 1 - H. Fischer.)

CHIEF CLERK: 23 yeas, 31 nays and 1 absent.

PRESIDENT EGAN: The "noes" have it and so the proposed amendment to the amendment has failed. Mr, Fischer?

V. FISCHER: Mr. President, I would like to address a question to the Chairman of the Judiciary Committee. I would like to know, in case Section 21 is not adopted by the approval of the

pending amendment, who would have the authority to establish districts?

MCLAUGHLIN: My personal opinion is that the legislature would still have the power to designate districts.

MCCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall Mr. McLaughlin's proposed amendment be adopted by the Convention — that is, the adoption of the proposed new Section 21?" The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 21 — Judicial districts shall be established by law."

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment will signify by saying "aye1, all opposed by saying "no". The "ayes have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Doogan.

DOOGAN: I would like to revert to Section 16 for the purpose of information. I would like to direct a question to the Chairman of the Judiciary Committee. Mr. McLaughlin, you spelled out malfeasance and misfeasance. Would you tell me why you left out nonfeasance.

MCLAUGHLIN: I have already requested Mr. Rivers to answer that question, I knew it was going to arise.

PRESIDENT EGAN: Mr. Ralph Rivers, you may answer the question.

R. RIVERS: We set up an early retirement of judges for infirmities and incapacity which might occur prior to the age of compulsory retirement and when I was more or less a subcommittee, within the Committee working on this, we considered that nonfeasance generally is because of illness or incapacity to perform. I don't see impeaching a man because he perhaps falls behind in the performance of his duties. So for the purposes of talking about impeachment, we just chose to say malfeasance and misfeasance, and we wanted to carry out that distinction. If a judge should, in the due course of a proceedings, have an order in front of him that should be signed in the due course and refuses to sign it, that could be misfeasance instead of nonfeasance. So I think it is all covered and we're leaving the nonfeasance more or less to take care of the failure to perform because of Incapacity and illness.

DOOGAN: May I ask another question?

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

DOOGAN: What would you do in the case of a person who absolutely

refuses to work, and that could very conceivably happen.

RIVERS: That would be misfeasance.

PRESIDENT EGAN: Are there any other questions or amendment to be proposed to Committee Proposal No. 2? Mr. Victor Rivers?

V. RIVERS: I wanted to discuss briefly Section 10 regarding judicial council. I mainly wanted this matter to be a matter of discussion on the record. I wanted to ask the Chairman of the Judiciary Committee if he thinks there is a possibility that the governing body of the organized state bar —- now we don't know what that is or may be under the new state — do you think there is any possibility that within their bylaws or rules of organization there might be a chance for discrimination because of race, creed, color or religion?

MCLAUGHLIN: I think not, and if there were it could be corrected immediately by the legislature. The legislature has the right to determine who are members of the bar, it has the right to determine what bar association or associations exist and can even prescribe, since the practice of law is not a right but a privilege, it can even prescribe the conditions under which you are permitted to practice. It is a very remote possibility, Mr. Rivers.

V. RIVERS: I am not quite satisfied with that answer Mr. President. I think that there is different terminology in regard to the words "organized state bar". We had an occasion arise this morning when I asked a similar question which you told me that a man might be admitted to the bar but might not be a member of the Alaska Bar Association. I am assuming that some organization exists in here that might possibly adopt bylaws which would have the discriminations I mentioned.

MCLAUGHLIN: There would be no possible method, Mr. Rivers, of fully defining in the constitutional article exactly who should be and who should not be members of an organized bar and what an organized bar consists of. Originally, to give you some of its history, we had the provision in there, "The Alaska Bar Association or Its successor". Then the possibility was discussed that the Alaska Bar Association could be abolished by the next act of the legislature. So when we use the expression, "organized bar" we use it in the generic sense of that bar which contains all members admitted to practice in the Territory.

V. RIVERS: Do you think there is any value or necessity in putting in after the words, "shall appoint three members", the words, "regardless of race, creed, color, or religion"? Do you think that would be necessary as an addition to clarify this?

MCLAUGHLIN: I think that is unnecessary, Mr. Rivers, because you would then have to apply that qualification to every office holder in every portion of the constitution. I am sure that the learned gentlemen on the Preamble and Bill of Rights Committee have anticipated the question and will prohibit discrimination on those grounds.

V. RIVERS: Another question, Mr. President.

PRESIDENT EGAN: You may proceed to ask the question, Mr. Rivers.

V. RIVERS: I see that on the basis of area representation, the governing body of the organized state bar, not the membership, shall select the appointees from the legal side. Is there some reason why these are not selected from the membership of the organized state bar, rather than by their governing body?

MCLAUGHLIN: The intent was that there would be in existence or be created, a body which would be representative of all persons admitted to practice, and they would lay down the rules by which the governing body would designate people to the judicial council. It doesn't preclude election, it is determined on majority vote of the membership. The mechanics we felt should not be spelled out in the constitution,

V. RIVERS: Mr. President, I have another question and it seems to me appropriate to get it in at this time. We have approached this judicial council and taken it largely at face value. We have three laymen members, three legal members, and a judge member. I see in the explanation matter that the Committee has prepared that they give us no information as to the value of different types of judicial councils — whether they are best composed of half judges, half lawyers and no laymen, or whether they are best composed with laymen on them or not, and It would seem to me that the establishment of the judicial council at this time follows the Missouri Plan. We have heard considerable about the Missouri Plan, but it has never actually been expressed in the record in detail. I would like to have your comments on the composition of the board and the reason for both the judicial and lay members and the thinking of the Committee in regard to that.

MCLAUGHLIN: For the information of the gentleman, in the State of Missouri, the appellate judicial commission consists of seven members -- the chief justice, three elected lawyers, that is, elected by the bar and three laymen appointed by the governor. The circuit judicial commission, which is a variation of the lower courts, consists of the circuit judicial commission, two lawyers, two laymen and the presiding judge of the court of appeals. They are both created under Article V, Section 29B of the Missouri Constitution. The Committee based

its recommendations directly upon the Missouri Bar Plan. That is, the composition is identical with that of the appellate judicial commission in Missouri, The basis of it is that you should not have all attorneys on it. The theory of having the laymen on it are fairly balanced, having one representative of the judiciary, three lawyers and three laymen, is based on the assumption that there is a public interest involved and that the laymen represent the public at large, rather than any professional group. Mr. Morris -- I had a quote available but I'm sure I've lost it in this welter of papers — the comment by one of the prior members (President of the American Bar Association) was to the effect that, and this is by Mr. George M. Morris, and I am quoting: "I asked an informed invididual which kind of group gets the best results. His answer was 'Those councils which have laymen on them. Where either judges or lawyers serve alone they seem to lack energy for sustained attack. Where judges and lawyers serve together, each group seems to have a diffidence about imposing its views upon the other, which stultifies action. Where, however, laymen are included, their presence seems to act as an ice breaker and to stir activity among the professional members of the council. Laymen's criticisms are sharper.'"

V. RIVERS: That is what I wanted to get in the record, Mr. President, and I want to have it shown that that came from the Judicial Councils of the States, American Bar Association Journal of July, 1943.

PRESIDENT EGAN: That is in the record then, Mr. Victor Rivers. Mr. White.

WHITE: Mr. President, also going back a little bit, I feel there is one big gap In our discussion of this committee proposal, and it has to do with the establishment of other courts. I would like to direct a question to the Chairman of the Judiciary Committee, merely to get into the record a little fuller explanation of the Committee reasoning in arriving at the language in Section 1 and 8 as to other courts. I think it is important.

MCLAUGHLIN: Mr. Chairman, Section 8, which reads, "Judges of other courts shall be selected in the manner and for the terms and subject to eligibility qualifications, to be prescribed by the Legislature." You will note the Committee did not even prefer to qualify the other courts as being inferior courts or courts of limited jurisdiction. We avoided the word "inferior" because it has a distasteful connotation in modern jurisprudence, and we avoided the other courts of limited jurisdiction because of the fact that we wanted a flexible system which could grow with the Territory. One of the problems which was presented to the Committee was the possibility that our Supreme Court, since it must in substance sit

en banc, would not be able to handle all the direct appeals from the superior court and sometime in the future, with the development of Alaska, we might require an intermediate court of appeals such as we have in most states, that is an appellate division or a court of appeals which took appeals from the superior court, having heard them, could then be appealed to the supreme court. We did not want to set up a useless court system in our constitution, but under this article we can create in between the superior court and the supreme court, an Intermediate court of appeals. The legislature can create it. Would it be independent of the judiciary? No, because we have, in substance, given the power to the supreme court to make rules and to administer all courts, so the legislature would be circumscribed and yet in effect, it could fill the gaps when the time arose. We did not say inferior courts or courts of limited jurisdiction, because we knew the people in Local Government did not know or may not know in the future, for sometime, what the evolution of their local government units would be. We wanted to leave flexible, a system which could be utilized, a court system which could be utilized in local government units, possibly covering several units, or whatever they're called. We wanted to give great flexibility but we did control them because of the fact that we have the power to administer (when I say "we" I mean the supreme court) and the power to make rules. In fact in New Jersey, the supreme court under its rule-making power, has made part of its rules, The Canons of Judicial Ethics, and so no matter what the legislature says about its courts which it creates, the supreme court can insist the judges abide by Canons of Judicial Ethics, even in those courts created by the legislature. The local government people were desirous of having flexible courts available to meet a developing situation and yet give the supreme court the control and the power to step in any time there is a legislative abuse of the judicial system. Is that an adequate explanation, Mr. White?

WHITE: Yes it is. Thank you.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to ask a question along the same line. I would like to have our thinking reflect the thinking of the Committee, the Judicial Committee, on, when you mention intermediate courts, or courts of second appeal, do you refer to specialty courts such as juvenile jurisdiction and in matrimonial relations, etc.? Is there a competent authority in here for them to establish such courts?

MCLAUGHLIN: There is competent authority in here for the legislature to create any type of court imaginable except that the highest court of appeal and the court with the rule-making power and the administrative power is the supreme court. We can establish probate courts, magistrate courts, if they so

desire, justice of the peace courts, domestic relations courts, courts of special sessions, courts of any conceivable nature. The requirement is, we are avoiding the difficulties that New Jersey encountered. We don't want to spell them out in the constitution — if we do we'll never get rid of them.

V. RIVERS: That would have to be established by the legislature, an act of the legislature and not by any act of the supreme court or superior court, is that right?

MCLAUGHLIN: As It stands now, the superior court and possibly even the supreme court, can have jurisdiction over every con-ceivable case that arises in the State of Alaska, and they cannot be deprived of that jurisdiction given to them, but the legislature can create other courts of great power but subject to the control of the supreme court.

PRESIDENT EGAN: Mr. Doogan?

DOOGAN: Could we have a recess for a minute?

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until about 3:25 p.m. for the reason that there are some electricians who would like to come here just about now and install the public address system so that the galleries can hear what we are saying. Mr. Victor Rivers?

V. RIVERS: That seems like that is going to take quite a bit of time. I would like to ask that this Proposal No, 2 be continued in second reading and be referred to the Committee on Style and Drafting.

PRESIDENT EGAN: The Chair felt that it would be necessary for the Chair, when we are all through, to refer the proposal to the Committee on Engrossment and Enrollment first and then later, It would go to Style and Drafting. However, it might be well that we just hold it where it is now and when we take up at the end of the recess, someone might have other questions or there is a possibility that there may be other amendments to be offered. Mr. Victor Rivers.

V. RIVERS: If we are going to have to leave it where it is, I move we adjourn until 9 o'clock tomorrow morning at this time and ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the Convention stand adjourned until 9 o'clock a.m. tomorrow morning. First, are there committee announcements of meetings or any other announcements before that motion is put? Miss Awes?

AWES: If we adjourn I would like to call a meeting of the Bill of Rights Committee for a few minutes upon adjournment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the Committee on Resources will meet immediately following adjournment.

PRESIDENT EGAN: The Committee on Resources will meet immediately upon adjournment. Mr. Hellenthal?

HELLENTHAL: Mr. President, the Committee on Apportionment would like to meet immediately following adjournment, if there is an adjournment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: The Local Government Committee will have a meeting at 4 o'clock If we adjourn.

PRESIDENT EGAN: The Local Government Committee will meet at 4 o'clock If the Convention adjourns. Mr. Nerland.

NERLAND: The Finance Committee will meet at 3:10.

PRESIDENT EGAN: The Finance Committee will meet at 3:10, if we adjourn. Are there other committee announcements? The Chair would like to announce that a letter was sent to Mrs. Jones, the school teacher of the 7th and 8th grades, in which we asked that her class visit us on the 15th, which would be Thursday, and prior to that time we will try to arrange a listing of the children for the particular delegates to take to luncheon on that day on Thursday the 15th. Is there anything else to come before the Convention before this move for adjournment is put. If not, unanimous consent has been asked that the Convention stand adjourned until 9 o'clock tomorrow morning. Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard.

STEWART: I second the motion.

PRESIDENT EGAN: Mr. B. D. Stewart seconds the motion. The question is, "Shall the Convention stand adjourned until 9 o'clock tomorrow morning?" All those in favor of adjourning the Convention until 9 a.m. tomorrow will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention does not stand adjourned. Mr. Coghill.

COGHILL: Mr. President, I move we have a ten-minute recess and ask unanimous consent.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the Convention recess for ten minutes. Is there objection?

SUNDBORG: I object. I would like to move to amend Mr. Coghill's motion to provide so that committee meetings may be held, that we stand at recess until 4:30 o'clock today.

PRESIDENT EGAN: Is there objection to having the recess stand until 4:30 this afternoon? Do you accept that Mr. Coghill?

COGHILL: I will accept.

PRESIDENT EGAN: Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: I so move.

RILEY: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention stand adjourned until 4:30 p.m. All those in favor will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention Is not adjourned. Is there another motion? Mr. Gray.

GRAY: I move that we recess until 3;20 p.m.

PRESIDENT EGAN: Mr. Gray moves that the Convention recess until 3:20 p.m. Is there objection? The Convention stands at recess until 3:20 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that the opinions requested of the Attorney General have arrived, and we are going to have them mimeographed and should have them available for all delegates tomorrow. So we have Committee Proposal No. 2 before us in second reading. Are there any other questions or proposed amendments to Committee Proposal No. 2? If not, the Proposal will be referred to the Committee on Engrossment and Enrollment. Committee Proposal No. 2 is referred to the Committee on Engrossment and Enrollment. When it comes back from Engrossment and Enrollment it will still be in second reading. When that report has been accepted and if there are no further amendments at that time, then it will be referred to the Committee on Style and Drafting. We have on the calendar Committee Proposal No. 1. Mrs. Hermann?

HERMANN: Mr. President, before we take up Proposal No. 1, I would like to ask the Judiciary Chairman if he, his Committee, contemplates any more proposals that might take care of matters belonging to the judiciary department but were not properly

part of this original proposal?

PRESIDENT EGAN: Mr. McLaughlin, could you answer that question?

MCLAUGHLIN: Mr. Chairman, we did not. It was our understand ing that on the related matters such as compositions of juries and civil cases, indictments by the grand jury, and other similar matters, that those would be handled by the Bill of Rights Committee and possibly by the Executive Committee. We did consider the proposal suggesting that we set up a public defender system, proposal that we provide for the public prosecutors, and we felt it was not within the scope of the Committee's function.

PRESIDENT EGAN: Then, Mr. McLaughlin, at this time so far as you can see, your Committee will be inactive to the extent that it won't be holding Committee sessions.

MCLAUGHLIN: With the indulgence of the Convention, we shall be inactive henceforth.

PRESIDENT EGAN: And available for any other work the Convention needs you for. We have before us Committee Proposal No. 1. The Chief Clerk may proceed with the reading of Proposal No. 1.

(The Chief Clerk read Committee Proposal No. 1 the second time.)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I have two suggested amendments to Section 1 and one to Section 4.

PRESIDENT EGAN: Are there other amendments? We have before us an amendment by Mr. Johnson, an amendment proposed for Section 1. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 9, page 1, strike the word 'or', insert a comma and after the word 'read' and after the word 'speak' insert the following: 'and write'."

JOHNSON: I move the adoption of the amendment.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the amendment. Mr. Robertson seconds the motion. The question is open for discussion. Would the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Line 9, page 1, strike the word 'or', insert a comma after the word 'read' and after the word 'speak' insert the following: 'and write'." So it would read "speak and write".

PRESIDENT EGAN: The question is open for discussion. Mr. Barr?

BARR: I know this is in line with the requirements generally in other states, but I have in mind our large Native population up here, and I don't believe we should make too many restrictions. It Is true a man should know who he is voting for and what he is voting about If possible, but up here, a person living in outlying communities, especially the Natives, they hear quite a bit over the radio, and I am certain they hear all the campaign speeches. It seems to me that they can become fairly well acquainted with issues at hand through other means than reading. I don't object to them being able to read, but they should not be required to be especially proficient in it in order to vote.

PRESIDENT EGAN: Mr. Barr, the word "read" is already in there. Mr. Johnson peeks to add the word "write".

BARR: I don't think they should be required to write at all other than their name.

PRESIDENT EGAN: Mr. Gray.

GRAY: I do not approve of the amendment because it is too limitive. Actually, there are two classes of people that will come up before this amendment, one Is our naturalized citizen who by naturalization had to learn to read, speak or write, so this particular phrase, or the full limitations of this is only directed to one person, and that is a person that Is actually born in this country, and that is the one that it disfranchises. Now the ability to write your name is not a criterion of intelligence, and if you go back to 100 years ago, when it was not as common as it was today, why the ability to read or write was no criterion of intelligence, and It Is no criterion of intelligence today. These are local born citizens we are talking about, and we are going to disfranchise them because the state itself has not provided them with the education in their early years. I see nothing but harm to our own local born citizens with this full limitation they have and I believe that the mere fact that you can speak the English language is sufficient to cover and tell of how they should vote. Otherwise you are disfranchising one of your own citizens.

PRESIDENT EGAN: If the Chair may, Mr. Johnson, does not the Act that appears on the Territorial statutes at the present time contain substantially the same language with this provision, "This section shall not apply to any citizen who legally voted at the general election of November 4, 1924."?

JOHNSON: Yes, it does.

COOPER: Mr. Chairman, the last line, line 16 is actually a mistake I believe, in the typing. It should read "citizen who legally voted at or prior to the general election of November 4, 1924,"

HELLENTHAL: No, that is verbatim from the Act of Congress that has been in effect since 1924 which reads, "This section shall not apply to any citizen who has legally voted at the general election of November 4, 1924." There is no mistake in it, it is verbatim from the Act of Congress.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: A point of Information. Is that a part of the present Organic Act?

HELLENTHAL: No. This is from the Act of Congress that was passed and has not been changed since June, 1901.

R. RIVERS: Why do we have to have that in our constitution?

HELLENTHAL: That question, Mr. Rivers was a subject of considerable debate, and Mr. Peratrovich was familiar with matters of this kind and was familiar with many of the people who were protected by that clause. He states that although all those people are growing quite old, that if we do not include that provision in the constitution, these people who have been voting since 1924, will be disenfranchised and that this was put in to protect those relatively few people in their old age.

R. RIVERS: Would that be the Metlakatlans who are not citizens of this country? Would that be some of those Canadian Indians who became Metlakatlans?

HELLENTHAL: No, It would be citizens only. I will read again the language of the Act of Congress. "This section shall not apply to any citizen who has legally voted at the general election of November 4, 1924." What it does is protect citizens who voted at that particular general election just as they have been protected ever since that date in 1924.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I was instrumental in changing this language from "and" to "or" and I think I owe It to the Convention to give my reasons here. Now I don't know how the situation Is up in this area, but down in the Southern end of our Division we do have the type of citizens that can speak and understand the English language and also can write their name and perhaps write a sentence in English, but they cannot sit down and write letters. As the Chairman of our Committee related here, they are very few in number at the present time, and they have

been participating in the works of the government through voting, and I think they have been good citizens – at least that has been my observation, and I am afraid if we are going to be too restrictive here that you are going to disqualify such people, citizens, from practicing the privilege of voting. I don't especially say that we should just open the gates to everybody. But here we are, we are concerned with a constitution that is going to govern us in the future here, and we have such people here, through no fault of theirs perhaps, that do not measure up to the requirements that you would like to have in your constitution. Your school program is such that the people in the outlying districts don't get the benefits that your children have in Fairbanks, Anchorage, Juneau and other places, and I think it is only fair that you people should take that type of citizen under consideration. Now I don't think it is asking too much to permit these people that have already voted to go to the polls and exercise these rights. Some of your politicians that go around know that any number of the citizens in these small communities can sit down and understand everything that you advocate. They know what you are promising, they can understand the English language, and they can go to the polls and vote intelligently on the grounds of what they heard. But if you were to ask them to sit down and write a letter from the constitution on certain sentences, they could not do it. They are very few in number, however, but in consideration of them I felt it was my duty to change this langugage and proposed recommendation of this Committee. That is my stand on it. And this Act our Chairman refers to is a Federal Act, as I understand it, and at the present time we only have from five or six in my Division that comes under that. However, they cherish that right, and I know it is going to hurt them terribly to take that away from them. However, that is up to you to decide that issue. For Mr. Rivers' information, I think everyone in Metlakatla is a United States citizen, declared as such by act of Congress, I understand.

R. RIVERS: Mr. President, I understand that to be true with the exception of a few who did not become citizens, but they'd all be citizens there now. I wanted to ask Mr. Peratrovich if putting the words "or speak" instead of the words "and speak does not do away with the necessity of that last sentence. I understand that some of those people can talk the English language but they can't write, and I would be In favor of this last sentence if you were saying that they had to qualify by being able to write the English language, but when you say to be "able to read or speak the language", then I don't see the need for that last sentence, because I am sure they can speak.

MARSTON: I want to follow up Delegate Peratrovich on the northern country. I am thinking right now down in Hooper Bay. There are 23 people that voted one time. Only three of them could qualify under the requirements at that time. But these

other 20 men, If you want to change the requirements, if Mr. Johnson's amendment goes through, will be lost to the United States. You stop a man from voting who has been voting, he does not belong to this country. He would look to other shores. He is not one of us. It would be a crime to throw him out because he cannot write. They have no writing material. They live in wet tents in the summer time and in boats and dugouts. They have no writing material or pencils. They just don't write, but they use the radio, and they have good intelligence, and they are smart and smarter than a lot of our people in our big cities on the political issues that come up. Foreign people come here and adopt this country, many of them can't write. You will find this true in many of our places, and they are the most patriotic citizens we have. If you force them to write to qualify them to vote, you lose a lot of fine citizens, and after all, we want to build the nation up and have every man who lives here a loyal patriotic citizen. If you throw him out of Voting where he has been voting, he will not be inclined to be loyal and patriotic, and neither would you if you were stopped from taking part in the government. I think these people who lived here and inherited this country might turn around and ask us about some things about how we vote Instead of our telling them how they can or can't vote. It is their country and I think every man should vote and we should not stop him. Quite a few states have no educational qualifications for voting. They are wide open and that is what I would like to do if I had my way about it -- no qualifications for voting, just citizens and qualify that way, that is all the requirements we should request.

PRESIDENT EGAN: Is there further discussion on this motion? Mr. Johnson.

JOHNSON: I would just like to point out that I certainly did not intend to disfranchise anyone by this amendment, but we do have that requirement now and if, as Mr. Marston says, this amendment Is adopted, 20 people in Hooper Bay will be denied their right to vote because they are unable to write, then certainly there is no reason why they should not have been denied that right before because that requirement Is In the law now. It is not unusual or strange — I don't see that it Is so difficult to learn how to read and write the English language If you are an American citizen, and certainly it was pointed out by somebody here that every citizen who comes over from some foreign land and is naturalized, must be able to read and write. Is it so much to ask that Nativeborn American citizens should not be able to do the same thing?

PRESIDENT EGAN: Miss Awes.

AWES: I just wanted to ask a question and it was answered in Mr. Johnson's statement.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I have come to the conclusion that the present literacy act which we have requires the voter (maybe it's a juror) to read a section of the Constitution, chosen at random. That might be that it refers for jurors instead of voters but in any event, I favor the language as it stands. I also have had a great deal of experience with the Native people of Alaska, both in my own Division and in the Northern Division which comprises the Second Division, and I know that we have a great many of them up there who have very fine citizens who may be able to speak the English language and can't read it, or read it and can't speak it, and I think that provision was put in there with an eye toward those people. And if the government itself provides no facilities and did provide no facilities 20 or 15 years ago whereby those people could go to school and learn to write, I don't think that they should be penalized now by making a requirement of voting, that they have to write in order to qualify. After all, we are pretty well informed that we have over 3,000 children of school age in Alaska at this time that are not going to school because no schools have been provided for them. That situation was infinitely worse 15 or 20 years ago, and many of these people who will be unable to qualify on the writing end of this amendment* had no opportunity to learn to write and little opportunity to learn to read. The story of how some of them have overcome their handicaps in that respect, is really one of the sagas of the North. I approve of the language as it stands.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I also approve of the language as it stands here because we might, from reverse logic, conclude if we should accept the amendment that all those who do speak and read the English language who have had opportunities to learn it and go to school should, by law, be forced to vote.

ROBERTSON: I speak for the amendment. I think that the right of suffrage is the greatest right the American citizens hold. Instead of lowering the bars to the right of suffrage, I think the bars should be increased, and I think if they were increased that we would find instead of now where thousands of people reject the opportunity to exercise the right, I think we would find it was worthwhile, if they would all get out and vote. I believe it is no hardship on anybody as long as we have the grandfather clause in this section to require that the citizen who wants to vote should also be able to read, speak and write the English language.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I was trying to think of the precedent in other states and ran across this in the Hawaiian

Constitution where it says, "No person shall be qualified to vote unless he is also able, except for physical disability, to speak, read and write the English or Hawaiian language." I noticed that before that if we go to Hawaii we have to learn their native language before we can vote over there. Maybe that might be our answer to our problem here. I think a lot is going to depend on the school system. Mr. Johnson's amendment, or the proposal as it is, would have very little effect upon the voting right of the people at Unalakleet, and that is one of the largest Native villages. There may be about five who would be disqualified if the amendment went in and I don't think those five have voted or have ever tried to vote. They haven't shown any interest in voting. Me have quite a large voting population, or quite a large vote, I should say, and they have been fully qualified to vote. I think the difference lies in whether we have schools or not. Unalakleet has had a school since 1890. I think there you have your difference. You do have many villages that have had the first school started in their village in the last four or five years and there are still a few villages with no schools at all, and I can't help but feel that we do disenfranchise them by making them do something they have not had the opportunity to learn how to do. Now, on the other hand, if they can't vote intelligently unless they read, write and speak, then that throws in another side of the picture so we have here probably a pretty well balanced debate.

JOHNSON: I request a roll call.

PRESIDENT EGAN: The question is, "Shall Mr. Johnson's amendment be adopted?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following re-sult:

Yeas: 11 - Boswell, Collins, Cooper, Johnson, Laws, Londborg, Nerland, Reader, Robertson, Sweeney, Walsh.

Nays: 42 - Armstrong, Awes, Barr, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Taylor, VanderLeest, White, Wien, Mr. President.

Absent: 2 - H. Fischer, Smith.)

CHIEF CLERK: 11 yeas, 42 nays and 2 absent.

PRESIDENT EGAN: So the proposed amendment has failed to pass. Mr. Victor Fischer.

V. FISCHER: Mr. President, are we still on Section 1?

PRESIDENT EGAN: We are still on Section 1.

V. FISCHER: I have an amendment, and first of all I would like to address a question to the Chairman of the Committee on Suffrage and Election. I would like to ask Mr. Hellenthal why the age of voting has been lowered to 20 years from our current age of 21.

HELLENTHAL: Mr. Fischer, the Committee made that determination. I think they were motivated by the fact that they felt that there should be some relaxation of the age requirement. They had in mind that the voting age of 21, the magic figure, was adopted at the close of the l8th century and has more or less persisted. In those days men did not receive their formal education until comparatively late in life. With the passage of almost 200 years, younger people have become educated at an earlier age of course, and they felt that there should be some recognition of that fact. Yet, they felt they should not go down to 16, l4, 12, but they wanted to give some recognition of that fact, just as Hawaii did. Hawaii likewise set the age at 20. Two states have it at 18, but the Committee felt, in the light of their hearing and their careful consideration of the matter, that 20 would reflect that principle.

PRESIDENT EGAN: Mr. Fischer?

V. FISCHER: Could I have the amendment read, my amendment?

PRESIDENT EGAN: Would the Chief Clerk please read Mr. Fischer’s amendment.

CHIEF CLERK: "On page 1, line 2, that the number ’20’ be stricken and the number '18' be substituted.

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

V. FISCHER: I would like to move the adoption and ask unanimous consent.

SUNDBORG: I second the motion, and since I have an identical amendment on the desk, I wonder if the record could show that Mr. Fischer and I together proposed this amendment.

PRESIDENT EGAN: Mr. Fischer, do you object to that?

V. FISCHER: No.

V. RIVERS: Mr. President, I also have an identical amendment

there.

PRESIDENT EGAN: The record will show, if there is no objection, that Mr. Victor Fischer, Mr. George Sundborg and Mr. Victor Rivers proposed such an amendment. Is there objection?

GRAY: I object.

PRESIDENT EGAN: The question would then become, "Shall the names of Mr. Sundborg and Mr. Victor Rivers be added to the amendment?"

V. RIVERS: I withdraw my amendment.

GRAY: No, I don't object to the three of you, just to the amendment.

PRESIDENT EGAN: Is there objection to having the amendment read that it is by Mr. Victor Fischer, Mr. George Sundborg and Mr. Victor Rivers? Hearing no objection it is so ordered, and we now have the amendment before us for discussion. It has been moved and seconded. Mr. Victor Fischer.

V. FISCHER: Mr. Hellenthal has given a fine argument as to why we should depart from the old concept of franchising the voters at the age of 21. Now he explained that the Committee felt there should be a lowering but they did not feel that 16, 14 or 12 would be right. The Committee arrived at the age of 20. I believe that a much better case can be made to substitute the age of 18, which is the age when our young men and women generally graduate from high school. Their education is finished at that time. They go forth into the world. We expect them to earn their living, we expect them to fight, they can get married without any question. They can do all those things. Maybe they are not considered legally adults, but in every other way they are except also as citizens with the full right to vote. Now it seems to me that we would be much better off to give our young people something to shoot for, give them something that the educational system could prepare them for, and when they reach the age of 18 they can start voting and they will keep voting. I have quite a few arguments written down, I am sure that others will bring up. I would like to point out this is not a radical departure, something brand new to Alaska. In 1945, the Alaska Legislature passed a law authorizing l8-year-olds to vote. It was signed by Governor Gruening and the law could only become effective with the approval of Congress. It was pigeonholed in Congress as so many of the bills that Alaskans are Interested in are, but this is not a new issue, It was approved by the Alaska Legislature.

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

COGHILL: I might add I too favor this amendment. I have asked, by wire, of both of the National veterans organizations, the American Legion and the Veterans of Foreign Wars, of the date of the convention to which they have approved a resolution for going on record of 18-year-olds voting. However, I haven't received that. I do know that the VFW has gone on record, but what date and what year that convention was, I do not know, but I feel that if they are eligible to become a part of our fighting citizenry, they are certainly entitled to a part in the voting citizenry of our great Republic.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I am a member of this Committee and I am going to vote for Mr. Fischer's amendment. I think our President said that he believed that a man of 18 years old today should vote. If he is old enough to fight he is old enough to vote. I am going to vote for this amendment.

SUNDBORG: May I ask Mr. Marston, which one of our Presidents said that, was it Mr. Eisenhower or Mr. Egan?

MARSTON: I think they will both say it.

PRESIDENT EGAN: It is a mutual feeling, you are correct on that, Mr. Marston. Mr. Taylor?

TAYLOR: Mr. President, I think the members of this body should take into consideration the fact that when you lower the age of voting to 18 years, conferring upon them all the rights of a citizen, and that certain laws enacted for the benefit of those young people of whom you might say, tender years, then have the right to go into saloons, the right to drink over the bar, because otherwise It would be an act of discrimination to keep them out. You couldn't pass a law that would be constitutional if you attempted to enforce the laws that were made for their benefit. What you would have if you lowered this to 18, you would have these bars, you see the young fellows coming in now from Ladd Field and Eielson Field and falling all over themselves to, get Into a saloon and get something to drink. Every day you see in the paper where a bartender is arrested for selling liquor to a minor, and they are also arresting minors and fining them and putting them in jail. You want to take a look at that angle when you vote to reduce it to 18, because those people have the right to go into the bars and go into any place regardless of the moral atmosphere of it, and that applies to the girls as well as the boys. That would put juvenile delinquency down to lower than that, too. They would be subject to being punished in the regular courts that are for hardened criminals. That is one aspect of it that I thought I would call to your attention. I am not concerned over the act except I thought you should bear that in mind when you vote on it. If you want the young people doing that, why

vote it down to 18,

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I am wondering what effect it will have on the jury system. I assume it would be possible for the legislature to write laws regarding the qualifications of jurors that did not include the fact that the list is chosen from the voters at the last general election, as it is at the present time. But whether or not an 18-year-old boy or girl is qualified as a juror is one of the things that has been puzzling me, and I think that that would automatically throw them into the class of citizens who are eligible to serve on juries. I could be wrong about that and I am really throwing it out for somebody to answer than I am for any positive opinion about it. I just question very much, if that is the case, if an 18-year-old has had enough worldly or business experience to be qualified as a juror in an important civil case, for instance, which might involve hundreds of thousands of dollars or even on an important criminal case where their sympathies might be inclined to run away with them. I am not opposed to the amendment, except that I would like some expression of opinion on that point.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I wish to call an error to Mr. Fischer's statement. He said anyone can get married now without question, I believe was his statement, at the age of 18. I believe the members of the legal profession can bear me out. It Is 21 for males and 18 for females. Another question I would like to bring up -- I doubt very much if Congress would be much in favor of admitting us to the Union If our voting age was put down to 18 whereas all the other states in the Union have 21. Another question I wish to bring up, you cannot sue minors under the age of 21. What kind of confusion is that going to bring us into if we make them a voting citizen at the age of 18 and can't be sued or contracts be made. I think that will only add to the confusion of things, and I will therefore oppose Mr. Fischer's amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I, of course am in favor of the amendment, as I have my name on it. I want to say that I think the old age of '21 came down to us originally from English law and was something of a hangover in the matter of trying to curb the voting privileges. I want to point out also that two states, Georgia and Kentucky, now both have the l8-year age voting limit. They have been able to provide means of getting around the necessary qualifications for jurors, and of course as far as the Congress goes, It is my opinion that the Congress had very little hesitation of accepting men 18 years up for the

military service. I don't think they have any particular distinction about taking the income tax that those 18-year-olds pay. Most of our labor laws are such that they are, at the age of 18, able to work as a full citizen or a full worker and I think that this is our opportunity to get ourselves abreast of the times rather than to hark back to the old age of 21 as established by English common law and that's where the age first came from and I for one feel that we should, at this time, on the basis of our advanced literacy and our advanced system of education, and the progress that our youngsters have made, physically and mentally, grant them the privilege of voting. I want to point out in that connection that this is the vitamin age, the irradiated milk age, the enriched food age and at the age of l4 now, a youngster is two and a half inches taller and 30 pounds heavier than they were 30 years ago. It is hard to tell what the next two or three generations will bring, we might have to raise the size of our doors and also reduce the voting age and I am favorable to it. I would like to see them have the privilege of voting for the things that they fight to defend and pay the taxes to pay for it.

PRESIDENT EGAN: Mr. White, have you been attempting to get the floor?

WHITE: Mr. President, I have the feeling this is one of the things you don't oppose if you can avoid it. It seems to me that a lot of the arguments being made here are very good reasons for keeping the voting age at 21. I think the trend apparent in all of these matters that have been mentioned is towards keeping young people in school longer. I would like to see the trend toward keeping them out of the army longer. I would like to draw this parallel for example -- 100 years ago we had 14 year olds working in the factories in this country. We did not say because they were working in factories they should then vote. We concentrated on getting them out of the factories and into the schools where they belonged. That to me is the proper Interpretation of the trend. The fact that 18- year-olds can fight or are called into the armed services has no relevance at all. It is the cold fact that an 18-year boy is the best fighting machine and a cold hard fact that he is the most easily led. It is a cold hard fact that when we get into an all-out fight that we need to call on all of our young men that we can get. I hope the day will come when we won't need to do that, but to say because an l8-year-old can fight, he should be allowed to vote, I think there is no relevance whatsoever. I think the matter of voting is much more closely connected with the age of majority. When the time comes to lower the age of majority to 18, then perhaps the time will have come to lower the voting age. I am fully in sympathy with the intent of getting more education into the school system leaning towards intelligent voting, but I see no reason why the first vote has to come while the young

boy or girl is still In school, to make that education take hold. I see no harm of allowing the period to elapse between the end of school and the first vote for a maturing period, a period of observation and a period of continued study. After all, the trend is towards more and more children going on to college. Perhaps the day will arrive when they will all go to college. That completely removes the argument that they should be able to vote at the age of 18. I am a little concerned about the political machines working into the high schools and trying to capture this l8-year-old vote before they get out of high school. The fact that two states adopted this 18- year- old vote need not concern us here. We get a lot of reference to what other states have done. I think we can probably consider the matter in the light of our own State-to-be. I think that that about sums up my argument.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I feel that if the age of 21 was some sort of hang-over, that is one hang-over that I approve of. It has been mentioned that the boys and the girls are through high school now, in other words they are through their schooling and they are on their own, they are getting a job, etc. Well, I think "grandpa" was through with his schooling long before that and he was out and he had a farm and probably had a family, at least probably married by that time — was well out on his own. He was in his rights in his day and age, but he still waited until he was 21, until he had learned a few things before he voted.

V. FISCHER: Point of order. We are discussing the lowering from 20 to 18, and the argument of whether it should be 21 is not really a part of this.

PRESIDENT EGAN: Mr. Fischer, I believe the argument is relevant.

LONDBORG: My argument is to hold it to 20. I refer to 21 because it had been referred to before and had not been called, so I thought I could do it myself. As far as the war is concerned, I certainly feel sorry for any boy who has to go at that age and fight and cannot vote and say whether he should go or not, but at the same time I do not know if that necessarily means that they should vote at that age. True, medical science has probably enabled the boys and girls to be taller and bigger at a younger age. I don't know how much that has affected the growth of the brain. The life expectancy is more, so that if even If it is held at 20, they have more opportunities to vote. Another argument that comes up in the lowering of the age is the fact that they can fly jets at 18, 19, or 20, and therefore, should be able to vote. Some parents have suddenly woke up and found their sons to be jet pilots when yesterday they denied them the use of the car. I wonder

if some of these jet-age young people could go back in grand-pa's day and drive the old mule. I think the age should be held as we have it here in our proposal at 20, I would go even a point further, but that would be out of order right now.

PRESIDENT EGAN: Mr. Harris.

HARRIS: As the youngest member of this body, I think I am entitled to speak on the question. The reference to Mr. Londborg's remark about grand-pa getting married at 20 or 21 — I got married at 18 and I think at 18 I was just as qualified as anybody, maybe not as qualified as I am now. I think the majority of our young people are qualified to vote at 18, and therefore, I think they should have the privilege of voting if they so choose.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I agree with the views expressed by Mr. White and Mr. Londborg. When you speak about fighting and making the draft age the age of maturity, I don't think there is any logic to it. As a matter of fact, at least the Union men in the Civil War were taken into war at 16 years of age, but I don't think that qualified them to vote, and we all know there were thousands of the Southern boys who were good soldiers long before they were 16. I don't think it is logical to say that our children are maturing more quickly. I don't think our children mature as fast nowadays as they did 50 or 100 years ago. I think the whole tendency of the age is to shove our age limits upwards so to make them take more education, go through more to prepare for their life work, and the labor laws themselves won't even permit them to work until they are 18, except in certain protected instances. And I think this is a great mistake to put this age limit down and I hope they vote against the amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I hope we get right down to the issue here now and draw aside the curtains of things that really don't apply to this matter at all. One of those things is how old a man should be when he fights. That has nothing to do with what has been proposed here or how old he should be when he pays taxes. What we are talking about is how old he should be when he is allowed to vote in our elections. I believe it does not follow automatically, I've been told by attorneys that it does not, that if we establish the voting age at 18 or 20 or whatever, that the age at which a person would be admitted to a bar would automatically be the same. We can legislate or we can set up in our constitution, requirements of minimum age for persons to be served alcoholic liquor and we can make It 35 or we can make it 50 and it wouldn't

be discriminatory anymore than it is discriminatory to say that no man shall be a candidate for the state senate unless he is 30. We are not thereby discriminating against all people between the ages of 21 and 30. We are setting up an age requirement for the specific thing which is under consideration. The specific thing under consideration here is the age that young people or any people may vote. I believe that when a young man or woman has reached the age of 20 he or she is sufficiently well versed in what our government and what our kind of life is about to be qualified to vote. In fact, I think many of the people between the ages of 18 and 21 probably know a great deal more and are better qualified to vote than some of the old folks of 70 and older and all of them now are allowed to vote. So I would hope that when we vote on this that we think only of the one issue -- how old should a person be to vote.

PRESIDENT EGAN: Mr. Buckalew?

BUCKALEW: Now that this discussion came up about the 20-and 18-year-old I remember when I was going to law school and we had a gentleman who was elected governor of the state and he was going to address the children of one of the large high schools in the State of Florida and he was having a lot of difficulty with his speech, in preparing his speech, and we were talking about it in the lunch room, and he says, "You know, it is pretty tough to address these people that are graduating. They are a lot smarter than these people I have been used to addressing, and I can't give them the old hell and brimstone speech; they won't accept it." That is what came to my mind when he said that politicians will probably get in there and sway the 18-year-olds. I am going to vote for the 18-year-olds for one selfish reason and then for other reasons because I think they deserve it. I recall when they had all this business in Korea and some of the soldiers said, "Why should I fight? I can't vote." I think that we are going to be fighting again, and I think if they have the privilege to vote it will raise their morale. It is possible. If we raise the morale in one or two divisions some day we might be glad we did it. It seems to me that if there Is some hope that lowering the age to 18 will eventually cause these individuals to participate more in government — they get out of high school and they can see they are going to vote — there won't be a two-or three-year-void there, I think we ought to give them the privilege on that account alone because it will train them for it. They'll realize when they get out of high school, they can vote. If they go in the service they know they are fighting for the Republic or whatever it is, they can vote in it, I would not mind having l8-year-olds on juries. I have had some experience with juries, and I don't think that if we had l8-year-olds on the jury that it would lower the standards of the jury system. In fact, I think it would probably strengthen them because the educational standards have risen over the

years. I feel pretty strongly about this, and I think the 18- year-olds are entitled to vote, and I don't think that the legal age to contract has anything to do with the right to vote. There is no relationship between the two. If you want to keep 18-year-olds out of the bars, you can do it although you let them vote. I can probably name you a lot of people who would be in favor of keeping everybody that's not 60 years old out of the bars and probably would get a lot of support for it. You will find a lot of 35-year-olds who need that prohibition as much as the 18-year-olds, I really think this body should think about it because the world situation like it is I think it would raise the morale of the American troops if you allowed 18-year-olds to vote.

MCNEES: I rise also to speak in favor of the motion, largely in support of Mr. Sundborg's views. We are granting here primarily the right to vote at the age of 18, and I think they should have the right to vote at that time. I do not think we need to worry about the other consideration, relative to jury duty, bars, etc. I think perhaps some of those 18- year-olds might carry their responsibilities better than some of the older folks. I favor the amendment, drop the voting age to 18.

ARMSTRONG: I am in the position of the old deacon who was asked how he was going to make up his mind on a particular vote and he said, "I haven't made up my mind yet but I'll be mean about it." It is difficult for me because there are some questions that are not clearly answered. Mr. Sundborg is not the chief justice of the supreme court of the State of Alaska and what he has stated of what will happen does not satisfy me in the eventualities as we lower our age range. If I can be satisfied in my own mind that in the transitions, that these other matters of contract, of the legal age of the bars and all, of entrance into the bars, if that can be handled I would feel much clearer in my own conscience in this matter of voting. So I would ask if that could be cleared up, it would certainly help me because I don't want to vote on the basis of a motion. I don't want to vote "yes" for 18-year- olds just because that is the popular thing to do.

PRESIDENT EGAN: Is there objection to having a five-minute recess at this time and perhaps legal minds can get together and solve this question? If there is no objection the Convention is at recess for five minutes.

RECESS

PRESIDENT EGAN; The Convention will come to order. Mrs. Wien, had you been trying to get the floor?

WIEN: I thought perhaps that as a mother of three children who have recently gone through the 18—and 20-year-old stage,

I would like to say what I think. I would oppose the amendment. My children, and most children, are in high school until they are 18. They have been taught theory. They have not been taught as much practical living as the young people 50 and 100 years ago who had to get out at 14 and 15 and earn a living. After they got out of high school, they either worked or went to the university where the type of education put you more on your initiative. This is a subject which I have not only decided by observation but have talked over with my young people at home. They agreed that when they got out of high school, before they had the practical experience of working or going to a university they would not have made intelligent voters until they had been able to put into practice some of the theory they had been taught in high school. I might also mention that although you consider the draft age 18 (and I think it is too low) before these boys are put out to fighting, they go through a training period or sort of a practical period a step between their high school and going into actual war. I might mention, it was brought up that there are certain labor restrictions until they are 18. That also restricts them from having practical experience in working before they get to vote. I would also like to say that I don't know how there are any jet pilots in the 18-to 20-year- old class since our United States services make a requirement of 20-1/2 years before a man can go into pilot traning in any of the services. I am for the 20-year-old age.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, those points were very well presented. I think we should hear from Mrs. Wien more often. There have been many arguments here as to why an l8-year-old should be allowed to vote. Education, military service, etc., have been pointed out here. None of those are really potent arguments because the chief qualification of the voter is that of good judgment and the ability to make decisions. It is true that our young people are better educated at a younger age than ever before. But as Mrs. Wien pointed out, that is education in theory. Fifty years ago people at that age would have had more practical experience in battling with the world and taking care of themselves and would have had better judgment. Now all I have to go on is my own experience. I can remember when I was 18 and 16, and at the age of 16 I joined the regular army, voluntarily. That proves I did not have good judgment at that time, and at the age of 19 I re-enlisted -- that proves I did not have good judgment then. (Laughter) As time goes on and I look five years back, I always think I have better judgment than I had five years ago. But I believe, in turning it over in my own mind, that 21 is the best age, but I will agree, that a man begins to form better considered opinions on these matters at around 20 than he would at 18. Just because he has a fit body and is a good fighting machine does not mean he should be able to vote. As a matter of fact, when

a man goes in the army he is told what to do at every turn. As soon as he has a fit body he makes a good fighter. I want to repeat that the principal qualification of a voter should be able to judge between different situations, between different arguments and issues and be able to make the proper decisions, and only age and experience can accomplish that.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I wish to speak in favor of the age of 20. I have run a kind of Gallup poll on this myself among the teen-agers, and I don't find that there is too much interest from them in voting at the age of 18. I have heard much the same thing as Mrs. Wien has mentioned. They feel at the age of 18, they get out of high school and they don't have that judgment. I suggested to one of the professors here at the University that this would be an opportunity for the students here at the University to help this Convention if they would run some sort of a poll and see what the students wanted. He said he had suggested that to some of his classes do that and he could not find much interest in it. He said he would suggest it again to the Student Body President and we have heard nothing from them. I think that shows an apathy to the proposition, and here we are sitting trying to force this voting age down to 18 on these teen-agers, and I don't believe they are really interested in it, and I think when they think it over they come up with the idea of 20 as about the right age. In fact, I think they would rather see the draft age raised than the voting age lowered, and I firmly believe that 20 is the best age for the voting.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would also like to speak in favor of the amendment. I have several points here in favor of it. I think if we are mentioning Gallup polls we should possibly ask the class that Mrs. Jones will bring out here tomorrow. I would not recommend we table the question for that purpose alone, but I think there would be very little doubt about what the class of Mrs. Jones would think. I largely think the question of whether l8-year-olds are capable of voting intelligently is one of education. Maybe it would be a very good thing if because of the lowering of the voting age, education would make a special effort to improve the instruction of civics in school. The question of whether a theoretical approach to all the voting problems is a disadvantage or not or that a practical approach is the only standard, is also debatable. I think very often we see the case when a man, the older he gets the more practical he gets, possibly too practical very often, so a little bit of the theoretical considerations being the prerogative of youth would not hurt, and I am last but not least speaking as a father of seven. I have some priority in that respect. I have only two sons I

can speak for. I got a letter yesterday from my wife, and she said that our children that formerly very little listened to the radio, (we have no TV of course, we are behind the hill) they are rather uncivilized in a lot of respects, they don't read the funny papers and they are otherwise compelled by circumstances to think quite a bit and now my wife writes that the eight-year-old two days ago asked her and said, "What is a Democrat, what is a Republican, Mother?" So I think there is hope for the children of Alaska. Give them a good education. Make them think. I think the family, which they leave, roughly, when they are 18, the family is a repository of our political liberties and also of our fundamental civic education for children. I am afraid the older they get, the more extraneous will their interests be, the more superficial their interests will possibly become. Our whole civilization points to it. I think if we catch the political interests when they are young and leaving their family, providing that the families will foster that interest, I think that is the best thing to do for them.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, it is unfortunate that one of the only two farmers in the Convention has to disagree. I think there are two essential points which make me feel I must vote against the amendment. The one is that I have a feeling there will be a tendency to bring partisan politics into the high school senior class if this matter is dropped to the age of 18. I have seen the matter enough in universities in the lower levels when right after the war under the GI Bill of Rights there were great many young men of 21 in the colleges and many times there were very vicious sides taken in academic work in the matter of politics, that could creep into the senior class in high school. In Alaska we have a great many 18-year-olds as seniors in high school; we also have a great many 18-year- olds in lower grades. The other thing which worries me about dropping it to 18 is this matter of the tendency of a legislature to pass laws regarding moral matters with more leniency towards a younger age than 21. When we have a larger percentage of our voting population that will be younger than 21, there may be a tendency on the part of the legislators to think they will bring them into such matters as signing petitions for liquor licenses. I think presently it requires that you be a qualified elector and a resident of the area. Things like that could be dangerous. I had hoped probably that we might get to 19, but I think 20 is better than 18. I shall vote against the amendment.

METCALF: Mr. Chairman, if we should vote for this 18, does that make him a citizen for purposes of contract? Can he be sued on the contracts in the courts?

HELLENTHAL: No, it does not automatically. It would take

further legislation by the legislature to reduce the age of when you reach majority and similar problems. I personally think that practically, to reduce the age for voting from 20 to 18 would tend toward a relaxation such as you suggest, but it would not be necessary that it so happens.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, after much discussion I hesitate to rise and say further on the subject except it is a subject that I very likely should not speak on because in between times of making a living I have been running for some “office or other since I was elected as justice of the peace in 1927. The more popular side of this question probably would be to favor the 18-year-olds, but like Mrs. Wien and Mr. Boswell, I have children between the ages of 23 and 12 and having taken a poll, I am especially interested in the one who is presently 18 and does not feel that she should have the right to vote. Now I don't think that possibly the children should altogether control it. I would like to speak on the legal and political implication that could be involved here. I agree with Mr. Hellenthal that the laws regarding contracts, the laws regarding juveniles and jurors and to the ages at which they could buy intoxicating liquor are set by law now and would have to be changed before they would be allowed to do those various things, but the important thing to consider here is if a man is running for office, and there is a large number of voters between the ages of 18 and 21, there would be a large number there, what finer fodder for a politician to use than to go to a group and say, "Now you get behind me and support me and when I get to the legislature I will introduce a bill so you can buy an automobile without having your dad or mother sign on it," and that bill would be introduced and the members of the legislature thinking about themselves coming up for the legislature again and wanting to get this popular vote between the ages of 18 and 21 are going to go along to relax the standards. Now that is only the one example. I want to add this on a bit of levity here — it concerns me very much to have a boy of mine who cannot marry in the Territory, now without my consent until he is 21. I don't want him getting married and bringing home a wife before he is 21 so that I have to support both my boy and wife and my hands are pretty full now.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, it rather amuses me that some of those who are speaking against this amendment and display concern because they feel that senior classes of our high schools might be invaded by politicians, did not have that concern a little while ago when we eliminated the requirement that a person be able to write before they be entitled to vote. I feel that as long as we have eliminated that requirement that

the average l8-year-old today is much better qualified, much more familiar with current affairs and much more able to decide how he or she should vote than a person who is not able to write, and I am not making any reflections on those people, but I feel that our l8-year-olds of today are more progressive and more interested in civic affairs and the affairs of the Territory and the nation than they ever have been before, and if we give them the right to vote at 18 they will prepare themselves ahead of time.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: One thing that we might take into consideration under this is the Territory itself, the new State of Alaska. We have a vast and wonderful country here, and in order to develop it we have got to also encourage people to come to Alaska and to develop it. We call ourselves a new country, a land of opportunity, and if we are going to lure young people from the states and from the large cities and paths already molded for them, if we produce at this Convention the intention of the Alaskan people to welcome young people to the Territory, this is the best way we can do it.

PRESIDENT EGAN: Mr, McLaughlin.

MCLAUGHLIN: Mr. Chairman, I am sure that none of the senior or junior ladies present here in this Convention were ever members of the "bloomer girls" and I am quite sure that none of them ever marched in a suffrage parade, but my recollection is, dimly, that the same arguments that are being used here against 18-year-olds were the arguments that we used approximately 35 years ago against women's vote. The history of the thing goes back about 90 years when they removed the curtain of coverture from married women and permitted them for the first time to contract. The arguments were against it. They didn't feel that women were capable of managing their own affairs. They did not feel that women were capable of voting and would be unduly swayed, in a sense, by their husbands and by the temperance societies to which they belonged. None of those arguments have any particular pertinence here. The argument is, do the 18-year-olds possess mature judgment and competent education these days. The suggestion is that some of these people, the professional politicians, certainly none of whom are present here in this Convention, might invade the high schools or the colleges. My recollection is that our chief machines in all of our large cities are not based upon their ability to sway you but their ability to sway Ignorance and to sway ethnic groups. My recollection is that in one of the recent municipal campaigns in the city of Chicago, the only idea or ideal of reform emanated from the University of Chicago, and only in that area did any reform element indicate any sizeable vote. The suggestion that the high schools would be invaded is a little bit ridiculous. If the high schools

will be invaded, why haven't the universities been invaded on the same principle? The fact is, they haven't been. Youth at 18 is idealistic and they certainly vote historically on a much better and much higher plane than do their elders. X think it is unjust to suggest that 18 is not competent to vote. I rather suspect that age is not competent any longer to adjudge youth. I am in favor of the 18-year-old voting age.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I think the sole criterion here as to whether an l8-year-old is competent to vote or note, I feel that is not the sole criterion by a long shot, I was interested in the use of the word "progressive" by Mr. Nerland. I was waiting for someone to say that because I think a number of people interested in this question are laboring under the delusion that this is a progressive measure. I don't feel that it is, I think it is regressive. I was interested In what Mr. Hellenthal had to say In that connection because I agreed that while lowering this voting age to 18 may not immediately result in all the dire consequences that have been suggested, it is certainly tending in that direction. I say It Is going directly contrary to the whole trend of development in this country in this matter. We have labored to take the children out of the factories. We have labored to keep them in the schools longer. We would hope to keep them out of the army longer. We are proud of the fact that age is increasing, we have many more years of life expectancy now than we had some years ago. We have many more years to fight the battle of life but I think the whole tendency should be given this increase life expectancy to devote a little longer time to preparing young people for taking part in life. I don't feel this is a progressive measure at all.

PRESIDENT EGAN: Mr. Gray.

GRAY: Here's another case where you are on both sides of the question again. Basically I see this as, the 18-year-olds' in high school, we'll say that 50 per cent now my contacts with high schools, they are dependents, they eat, sleep, and work and so on, and somebody else pays the bill. They are just removed from one year — now they do have apathy all right in politics. Anyone that is given no part of any affair, naturally has an apathy. I think if they are given the right to vote you will find that apathy disappears. Now I object to this void in our society. With juveniles and these school children up to 18, then for three years they are nothing. They are not juveniles, they're not adults, they go around for three years, and then we make them over night. What I see wrong with this thing is this l8-year-old and the reason for the 18-year-old is due to our present society of school. We still have them in school, and they are going to school and coming home, and they are still dependent. I don't put them in

the same dependence as Mr. McLaughlin had the women, because I think the women were earning their pay all the time in those days. But I do believe that at this time and I want the debate carried out, I think we have covered the 18 and 20, and if at this time I could amend the motion to 19, we may carry this out. That may be a complete new amendment, we should not bring it in, but if I am in the middle, I would like to have my amendment in the middle.

PRESIDENT EGAN: Mr. Gray, it would be a complete new amendment. It would be in order later but at this time it would not be in order because it would completely eliminate the proposed amendment.

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

ROBERTSON: I second it.

V. FISCHER: As the maker of the motion I think I am entitled to speak.

PRESIDENT EGAN: If the previous question was not seconded, then it —-

V. RIVERS: Point of order, Mr. President, The motion was seconded by Mr. Robertson.

PRESIDENT EGAN: Was it seconded?

ROBERTSON: Yes, I seconded it.

PRESIDENT EGAN: The previous question was seconded, the question then is, "Shall the previous question be ordered?"

BARR: Point of order, Mr. President. Was it not agreed here that we should not limit debate on these matters by moving the previous question?

PRESIDENT EGAN: No, Mr. Barr, it was not agreed. If a delegate wishes to resort to moving the previous question and it is seconded, the Chair will have no other alternative but to vote on it.

COGHILL: As mover of the motion I yield to the maker of the motion.

V. RIVERS: Point of order. There are three makers of the motion.

PRESIDENT EGAN: Your point of order is well taken, Mr. Rivers. If there is no objection, Mr. Coghill has withdrawn his motion for the question. Mr. Fischer, you have the floor.

V. FISCHER: Mr. President, there was reference made here to apathy, and as Mr. Gray pointed out, one of the problems has been a divorcing of the young men and women from political life. One of the major problems of the United States, as well as Alaska today, is nonvoting. There have been numerous studies that have shown that the age group that is most guilty of nonvoting is the age group of 21 to 30. Now there you have a good example that having this break probably constitutes one of the main reasons for nonvoters. A partial solution has been suggested in one of the studies to the problem of nonvoting, in the laying of more stress oh broad civic education from early youth through adulthood. That is part of it. Let's start educating them in high school and getting them right into the voting habit. Maybe when they first start voting they may not be the best voter or the most intelligent voter, or maybe only ten per cent of them will vote, but the point is, once you give them the franchise, once you get them started voting, I think that It will be something they will keep on doing through the rest of their life, because once they vote, they will keep right on voting. In conclusion, I would like to say that at a previous meeting it was pointed out that if passed, our Judiciary article as written and pretty much as approved so far, will be a model throughout the United States. Well, I would say that in terms of the people of the United States we will show more progress, so far as they are concerned, if we adopt the 18-year-old voting age, because the majority of the people have, through Gallup polls, expressed a definite preference for the 18-year—old voting age.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: In closing, I want to make a mention also of just what we are doing if we adopt this amendment. Our figures show there are 70,000 eligible voters in Alaska at the present time. If we adopt this motion we will increase that by approximately seven per cent. We will bring into eligibility approximately 5,000 more voters. Our records show that the average voting has been around 25 per cent. I can see where the amount that would vote then would be around 1,500 people added to our present voting strength. It would seem to me that would not be an inducement for the politicians to invade the schools any more than he does at the present time, any more than he seeks votes any place else.

PRESIDENT EGAN: If there is no further discussion, then, the question is, "Shall the proposed amendment as offered by Mr. Fischer, Mr. Sundborg, and Mr. Victor Rivers be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 23 - Buckalew, Coghill, Cross, Emberg, V. Fischer, Harris, Hilscher, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Stewart, Sundborg, VanderLeest, Mr. President.

Nays: 30 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Davis, Doogan, Gray, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Metcalf, Nolan, Nordale, Reader, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien.

Absent: 2 - H. Fischer, Smith.)

LONDBORG: My name was not called. My vote will be "no".

CHIEF CLERK: "No". I am sorry. 23 yeas, 30 nays and 2 absent.

PRESIDENT EGAN: SO the proposed amendment has failed of adoption. Mr. McNees?

MCNEES: Mr. President, I have an amendment for Section No. 1.

PRESIDENT EGAN: Mr. McNees has a proposed amendment for Section No. 1.

GRAY: Mr. Chairman, I have the same proposal.

COGHILL: So have I.

PRESIDENT EGAN: Is it all right to put everyone's name on this, Mr. McNees?

MCNEES: Yes.

CHIEF CLERK: "Section 1, line 2, delete the figure '20' and insert the figure '19'."

PRESIDENT EGAN: Mr. Londborg.

LONDBORG; Mr. President, may I rise to a point of information? What is our rule on the mover of the motion getting the last word? That is the rule, is it not?

PRESIDENT EGAN: That is right, Mr. Londborg.

LONDBORG: Is that in the singular or the plural, the mover?

PRESIDENT EGAN: Of course, in the case where there were several authors of the particular motion the Chair would hold that, in effect, they were just one-third of each and that they should be allowed the privilege of having some say if they so desired, If they were the author of the proposed amendment.

LONDBORG: I realize that is the technicality there. In other words, if I want to make a motion I get five coauthors then we five can wind up debate then?

PRESIDENT EGAN: That is if no one moves the previous question and they shut you off from debate.

COGHILL: Mr. President, I move and ask unanimous consent for my other two coauthors that this amendment be adopted.

PRESIDENT EGAN: Is there any objection from these people who have offered this amendment that other names be put on this amendment? The Chief Clerk will please read the proposed amendment and who the authors are.

CHIEF CLERK: Offered by Mr. McNees, Mr. Gray, and Mr. Coghill. "Line 2, Section 1, delete the figure '20' and insert the figure '19'."

PRESIDENT EGAN: The question is, "Shall the amendment be adopted?"

SUNDBORG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following re-sult:

Yeas: 28 - Buckalew, Coghill, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, VanderLeest, Mr. President.

Nays: 24 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Doogan, Hellenthal, Hermann, Hinckel, Johnson, King, Knight, Laws, Londborg, Metcalf, Nolan, Poulsen, Reader, Robertson, Sweeney, Taylor, Walsh, White, Wien.

Absent: 3 - H. Fischer, McNealy, Smith.)

PRESIDENT EGAN: Mr. McNealy was called but he was not here when the question was put. The Chief Clerk may proceed.

CHIEF CLERK: 28 yeas, 24 nays and 3 absent.

PRESIDENT EGAN: So the yeas have it and the proposed amendment has been adopted. Are there other amendments to Section 1?

ROBERTSON: I have one on the Chief Clerk's desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to Section 1.

CHIEF CLERK: There are three amendments to raise the age to 21. Those are to be thrown out then?

R. RIVERS: I was about to say right early in the game I favored either 18 or 21 but not the 20, so I did introduce one to change it to 21.

PRESIDENT EGAN: Is that Mr. Ralph Rivers' amendment?

CHIEF CLERK: Mr. White and Mr. Robertson, also. They are all the same.

R. RIVERS: I voted for 19 so I wish to withdraw my amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks that his amendment be withdrawn. Mr. Coghill?

COGHILL: Mr. President, is it my understanding there is an amendment for 21 now? We would have to rescind our action then.

PRESIDENT EGAN: No, we wouldn't have to rescind our action, Mr. Coghill.

CHIEF CLERK: Well, it's not right when it says to strike the number "20" through.

PRESIDENT EGAN: Now, of course, anyone who would offer an amendment to make it 21 would have to strike the word "19" because we have adopted the age of 19. Mrs. Sweeney?

SWEENEY: Were those amendments on the Secretary's desk be fore we got this last one? It seems to me that the amendments ought to be taken in the order they were received on the Secretary's desk.

PRESIDENT EGAN: Of course Mrs. Sweeney, the Chair will agree with you, but inasmuch as the delegates moved around rather quickly and got their amendments up there, it caused a little state of confusion up here. The Chair would admonish the delegates not to push in their amendments too fast.

SWEENEY: I don't think there should be that confusion. They

should be put on the bottom of the stack when received in order.

PRESIDENT EGAN: You're right, Mrs. Sweeney. Mr. Robertson?

ROBERTSON: My proposed amendment was on the desk before the "19" amendment was offered by any one of the three delegates.

PRESIDENT EGAN: Is that correct?

CHIEF CLERK: Yes, it is.

PRESIDENT EGAN: Well, It's still in order, Mr. Robertson. Mr. Sundborg?

SUNDBORG: Point of order. I wonder If it is not correct and if the Chair would not rule that amendments are considered in the order in which the mover is recognized by the Chair and given the floor and the right to make the motion.

PRESIDENT EGAN: Mr. Sundborg, you are correct, but the Chair feels that Mrs. Sweeney is correct inasmuch as the Chair should have recognized the fact there were other amendments on the table. The reason that error was made was that there had been such a terrific amount of time between the time that these original amendments had been placed on the Secretary's desk that the Chair forgot that.

SUNDBORG: Were the persons who wrote out the amendments seeking recognition at that time?

PRESIDENT EGAN: No, they were not.

SUNDBORG: I think there is no doubt about it then that we acted correctly and in order in recognizing the person who got the floor.

PRESIDENT EGAN: We acted correctly inasmuch as the Chair recognized the maker of the proposed amendment, yes, Mrs. Sweeney?

SWEENEY: Mr. Chairman, I move and ask unanimous consent that we rescind our action on the 19-year-old vote we just took.

MCCUTCHEON: I object.

METCALF: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention rescind its action on the vote on the amendment that was just adopted. It will require a two-thirds vote of the delegates to accomplish that. Your point of information, Mr. Doogan.

DOOGAN: If this motion fails to rescind our action on the 19, then any other amendments such as substituting "21" would be out of order, is that correct?

PRESIDENT EGAN: No, that is not right, Mr. Doogan. Mr. McNees?

MCNEES: Mrs. Sweeney and Mr. Johnson, why was action not taken earlier to call attention to the amendments on the floor?

SWEENEY: It has always been my opinion that amendments on the Secretary's desk were read in the order received, and it does not necessarily mean that when action is taken on one that you have to have three or six people hopping up to get notice on their amendment. The next amendment would be called and then the person would move the adoption.

PRESIDENT EGAN: This discussion is out of order. It has already been taken care of, and we have the motion before us to rescind the action that we just took in changing the voting age from 20 to 19 years of age. The question is, "Shall the Convention rescind its action?" Mr. Kilcher.

KILCHER: Mr. Chairman, it is debatable, is it not?

PRESIDENT EGAN: Yes, it is debatable, Mr. Kilcher.

KILCHER: I suggest to the movers of the motion to raise the age to 21, that they abolish the action by amending it according to their new amendment.

PRESIDENT EGAN: Mr. Kilcher, we have the motion to rescind before us, and the question is, "Shall the Convention rescind its action just taken in changing the voting age in Section 1 from 20 years to read '19 years'?" The Chief Clerk will call the roll.

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

Yeas: 20 - Armstrong, Awes, Boswell, Cooper, Doogan, Hermann, Hinckel, Johnson, King, Knight, Laws, Londborg, McNealy, Metcalf, Nolan, Reader, Robertson, Sweeney, Taylor, Walsh.

Nays: 33 - Barr, Buckalew, Coghill, Collins, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 2 - H. Fischer, Smith.)

CHIEF CLERK: 20 yeas, 33 nays, 2 absent.

PRESIDENT EGAN: So the rescinding action has failed of passage. Mr. Robertson?

ROBERTSON: Mr. President, I have two proposed amendments to Article 1 on the table, and as I understand the ruling of the Chair, in one I said, "Section 1, line 2 delete the word '20'." I ask permission to change that from "delete the word '19' and insert the word '21'."

PRESIDENT EGAN: The Chief Clerk will delete the word "20" then and insert the word "19". Mr. White.

WHITE: Mr. President, if we are in the practice of combining similar motions, I would ask mine to be combined in a similar manner with Mr. Robertson's.

PRESIDENT EGAN: Mr. Robertson, what is your pleasure regarding this amendment? Do you move its adoption?

ROBERTSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson moves adoption of his amendment. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 1, line 2, delete '19' and insert '21' in lieu thereof."

PRESIDENT EGAN: Mr. Robertson, do you agree to have Mr. White's name on there?

ROBERTSON: That is entirely agreeable to me.

TAYLOR: I want my name on there and ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor wants his name on there, too. Mr. Coghill.

COGHILL: I object. I would like to appeal the ruling of the Chair and ask for a five minute recess to bring before the Rules Committee the fact of changing the Intent of an amendment to an original motion.

PRESIDENT EGAN: Mr. Coghill, the Chair would like to state that the particular section read as it came to us, "20 years" on line 2, Section 1. There has been no amendment attempting to change that to the age of 21, this particular amendment before us now is an entirely different amendment than any other we have considered.

COGHILL: Maybe I'm a little confused, Mr. President, but attempt was made to rescind the action and the action failed and so therefore does it not prevail that that amendment — but I would like to have it stated clearly, we are in fact working on the adoption of Section 1 of our report, is that right?

PRESIDENT EGAN: That's right Mr. Coghill, the Chair believes that he realizes what you think and that is that the rescinding action precluded any further amendment. That is not true. The rescinding action had the affect of saying that the Convention would not rescind the action on that particular motion that had just been made, but it does not preclude offering another motion of a different category. Mr. Peratrovich.

PERATROVICH: I rise to a point of information. I was just wondering if it is in order to delete the amendment you have just adopted, the "19"?

PRESIDENT EGAN: It is in order Mr. Peratrovich, if the Convention so chooses.

PERATROVICH: I realize we do have the authority to amend an amendment but after it is adopted I question the propriety of deleting it after it has been adopted. Otherwise, we'll be here all day.

PRESIDENT EGAN: Well, if you change it to something other than has been proposed before, It is in order, the Chair will rule. Mr. Laws.

LAWS: Just for a little information, are we going to vote now on something that already is a law? It is the law to vote at 21. We are going to vote the same law we have right now?

PRESIDENT EGAN: Mr. Laws, you are correct inasmuch as it is the law of the Territory but it isn't the law of the new state yet. Mr. Barr.

BARR: I move that we recess until 9 o'clock tomorrow morning subject to notices of committee meetings.

COOPER: I object.

VANDERLEEST: I second the motion.

PRESIDENT EGAN: Mr. Barr moves, Mr. VanderLeest seconds, that the Convention adjourn until 9 o'clock tomorrow morning subject to notices of committee meetings. Are there reports of committees?

HELLENTHAL: I rise to a point of order. Subject to announcements of committee meetings —- should not the announcements

be taken after the vote?

PRESIDENT EGAN: After the vote, if the vote carries, we probably would not be able to catch them. If there are announcements of committee meetings they should be made right now. The question is, "Shall the Convention stand at recess until 9 a.m. tomorrow?" All those in favor say "aye", all opposed by saying "no". The "noes" have it and the Convention is still in session. Mr. Londborg.

LONDBORG: Mr. President, I move that we stand at recess for five minutes.

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

RECESS

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

JOHNSON: Mr. President, during the recess I ascertained that Mr. Robertson's motion, after the objection to the unanimous consent filed by Mr. Coghill, was not seconded. I now wish to second it.

PRESIDENT EGAN: Mr. Johnson seconds Mr. Robertson's motion to delete the word "19" and insert "21". Mr. Robertson.

ROBERTSON: Mr. President, after all the discussion I don't know that much can be added on my motion, which Mr. White joins me. I want to state that I think it is a great mistake to lower the standards of the exercise of the right of suffrage. I reiterate, in my opinion, it Is the greatest privilege and right of the American people and instead of lowering the standards we ought to, if anything, consider raising the standards, and I hope sincerely the delegates will vote for my amendment.

PRESIDENT EGAN: The question Is, "Shall Mr. Robertson's proposed amendment be adopted by the Convention?" Mr. White.

WHITE: Mr. President, I don't want to hold this up too much longer. I think we have arrived at something that's neither "fish nor fowl". Naturally, I am still in favor of 21, I don't see what we can accomplish by making the age 19. I would like to 3ee the issue clear cut. I still think one of the greatest difficulties in lowering it is that you create the discrepancy in the age of majority and the age of voting and that objection still remains whether it's 19 or some other age.

PRESIDENT EGAN: Will the Chief Clerk call the roll.

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

Yeas: 19 - Armstrong, Awes, Barr, Boswell, Collins, Doogan, Hinckel, Johnson, King, Knight, Laws, Londborg, Metcalf, Nolan, Reader, Robertson, Sweeney, Taylor, White.

Nays: 33 - Buckalew, Coghill, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Walsh, Wien, Mr. President.

Absent: 3 - H. Fischer, Smith, VanderLeest.)

ARMSTRONG: I would like to change my vote to "yes".

PRESIDENT EGAN: Reverend Armstrong asks that his vote be changed to "yes".

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

PRESIDENT EGAN: So the motion has failed for adoption. Mr. McNealy.

MCNEALY: I would like to give notice of reconsideration of my vote on it.

PRESIDENT EGAN: How did Mr. McNealy vote?

CHIEF CLERK: He voted "no".

PRESIDENT EGAN: Mr. McNealy serves notice of a reconsideration of his vote. Mr. Victor Rivers.

V. RIVERS: I move we adjourn until 9 o'clock tomorrow morning.

SWEENEY: Mr. Chairman, I asked for the floor before Mr. Rivers.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. Chairman, I would like to know if the reconsideration by Mr. McNealy precludes any further amendments? I have an amendment I wish to offer.

PRESIDENT EGAN: The notice of reconsideration would preclude the offering of any other amendments the Chair would feel. Mr. McCutcheon.

MCCUTCHEON: Mr. Chairman, I will move that the rules be suspended and that Mr. McNealy be given an opportunity for reconsideration of his vote at this time.

BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that Mr. McNealy’s reconsideration of his vote be taken at this time. Mr. Hurley.

HURLEY: Point of information. Is he considering his vote or is he going to ask we reconsider the whole question?

PRESIDENT EGAN: No, his vote on this particular proposed amendment that just failed, Mr. Hurley. It will take a two- thirds majority vote to carry Mr. McCutcheon's motion. Mr. Taylor.

TAYLOR: Mr. President, I believe that is a suspension of the rules and it takes a two-thirds vote to suspend them so as to make Mr. McNealy's motion come on for hearing now.

PRESIDENT EGAN: Yes, that is right.

WHITE: Parliamentary inquiry. If this suspension of the rules vote passes, does that preclude Mr. McNealy of again serving notice of reconsideration of vote on the question?

PRESIDENT EGAN: It does, there is but one reconsideration on a vote on a question. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until tomorrow morning at 9 o'clock.

ROBERTSON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded -- Mr. Rosswog?

ROSSWOG: I would like to make a committee announcement.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Mr. Rosswog, you would like to make a committee announcement?

ROSSWOG: Yes, that is that the Local Government Committee No. XII will meet at 8:15 this evening in our committee room.

PRESIDENT EGAN: Mr. Rosswog announces a meeting of the. Local Government Committee this evening at 8:15 in the committee room. The question is, "Shall the Convention stand adjourned until 9 a.m. tomorrow?" All those In favor of the adjourning the Convention will signify by saying "aye", all opposed by

saying "no". The "noes" have it and so the Convention will stay in session.

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chair had already announced the decision, before there was any roll call request.

V. FISCHER: I move to adjourn.

PERATROVICH: There has to be some other business taken care of before you can renew the motion.

PRESIDENT EGAN: Mr. Peratrovich, your point is well taken. The question is, "Shall the reconsideration of Mr. McNealy's motion be ordered at this time?" The Chief Clerk will call the roll on Mr. McNealy's motion to reconsider. Mr. McCutcheon asked that the reconsideration be ordered at this time.

JOHNSON: The question is a suspension of the rules?

PRESIDENT EGAN: That is right, to suspend the rules in order that Mr. McNealy's motion be taken up at this time.

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

Yeas: 20 - Awes, Buckalew, Coghill, Emberg, V. Fischer, Harris, Hilscher, Lee, McCutcheon, McNees, Marston, Nerland, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Stewart, Sundborg, Mr. President.

Nays: 32 - Armstrong, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Gray, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Nordale, Reader, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien-

Absent: 3 - H. Fischer, Smith, VanderLeest.)

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

PRESIDENT EGAN: So the motion has failed. Sundborg?

SUNDBORG: Mr. President, I wonder if I may be allowed to address an inquiry to the Chairman of the Committee on Suffrage with respect to the article before us.

PRESIDENT EGAN: You may proceed, Mr. Sundborg.

SUNDBORG: Mr. Hellenthal, I am bothered by the final sentence of the section which says, "This section shall not apply to any citizen who legally voted at the general election of November 4, 1924." The section as it seems to me is one that permits persons to vote. The whole sentence preceding the one I have just read is one saying that persons who possess the following qualifications "shall be qualified to vote" and if we take this literally what that final sentence says that any person who shall have voted in the general election of November 4, 1924, shall not be qualified to vote. Was that the intention of the Committee?

HELLENTHAL: That isn't what it says. It says that "any citizen who legally voted at the general election of November 4, 1924" may vote. And as to that small class of people, we are following the rule that the United States Congress has had in effect since 1924, that if they were citizens, and secondly if they voted at that November 4, 1924 election, they shall continue to be entitled to vote, irrespective of any other qualifications set forth.

SUNDBORG: Well, I submit that that is not what your section says. What your sections says is that citizens who legally voted in 1924 shall not be qualified to vote. It says that this section does not apply to that and it is a section that permits people to vote. I think perhaps your intention was that no person who voted at this general election of November 4, 1924, shall be barred from voting by anything in this section. Was that your intention?

HELLENTHAL: That is correct.

SUNDBORG: Do you agree with me that you say exactly the opposite.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, the Chair will declare a five-minute recess.

R. RIVERS: I move that we adjourn until 9:05 tomorrow morning.

BARR: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers moves that we adjourn until 9:05 tomorrow morning, seconded by Mr. Barr.

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following re-sult:

Yeas: 40 - Armstrong, Awes, Barr, Boswell, Collins,

Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Kilcher, King, Knight, Lee, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, White, Wien.

Nays: 12 - Buckalew, Coghill, Davis, Harris, Hurley, Laws, McCutcheon, McNealy, McNees, Peratrovich, Walsh, Mr. President.

Absent: 3 - H. Fischer, Smith, VanderLeest.)

CHIEF CLERK: 40 yeas, 12 nays and 3 absent.

PRESIDENT EGAN: And so the Convention stands adjourned until 9:05 a.m. tomorrow.