

**FOLDER NO.**

**154**

Wm. A. Egan  
President, Alaska Constitutional Convention  
College, Alaska

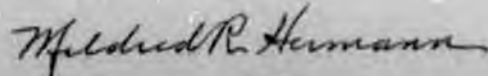
Dear Sir;

Herewith attached is a narrative report of the recess hearing held by Mr. McNees and me at Nome on the 28th of December, as prepared from the record of the stenotypist who covered the hearing for us, on a strictly volunteer basis. This report was given orally by me on the opening date of the reconvening of the Convention.

In addition to the one public meeting, at which approximately 100 citizens were present. I also spoke at the Chamber of Commerce and at the Rotary Club Luncheon, both of which were well attended. I also put in my two-bits worth at every social event of the week and talked privately with many individuals.

I believe the people of Nome are thoroughly informed in the premises.

Yours very truly,



Mildred R. Hermann

HEARING

on

ALASKA'S CONSTITUTION

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4 Held at Nome, Alaska, on Wednesday, December 28, 1955,  
5 at 8:00 P. M. in the high school auditorium. The  
6 hearing was conducted by Mrs. Mildred Hermann, assisted  
7 by Mr. John McNeese.

8 The hearing was opened by Mrs. Hermann who explained that  
9 the purpose of the meeting was to give the people of this area  
10 an opportunity to express their opinions about what the con-  
11 stitutional convention is doing and should do. She called  
12 attention to the fact that this would probably be the last  
13 constitutional convention ever called for the purpose of  
14 writing a constitution for a new state in the American Union.  
15 She pointed out that the convention was substantially following  
16 the precedents established by those who drafted the Federal  
17 Constitution which convention, through peculiar coincidence,  
18 had exactly the same number of members as the convention  
19 drafting Alaska's constitution - 55. Mention was made of the  
20 difficulties encountered by those drafting the Federal  
21 Constitution such as the dissatisfaction of the members of  
22 the convention, some of whom went home before it was completed,  
23 some of whom refused to sign it, and that the 37 who did sign  
24 it went home and apologized for having turned out such an  
25 inferior document. These first members were criticized all  
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1 the time they were drafting the constitution; they were using  
2 their own time and money but just kept plugging away for  
3 many months, not just the 75 days allotted to this convention;  
4 they finally came up with a document which was so bad in the  
5 opinion of those who wrote it that they apologized for it and  
6 promised, if possible, to revise it and make it a better docu-  
7 ment. Mrs. Hermann further pointed out that this was the  
8 same document that has endured for 166 years and that it has  
9 never been amended in its essential form; such amendments as  
10 have been added not changing the original form at all only  
11 adjusting it to changing circumstances under which the country  
12 has moved ahead.

13 Mrs. Hermann advised that the convention felt it was  
14 writing a good constitution and when it was finished they  
15 hoped to have one perhaps a little bit better than any state  
16 had yet written; that they must be bound by certain things  
17 in the Federal Constitution, for instance the theory of popular  
18 sovereignty government; that government is derived from the  
19 people and is inherent in the people and only they can indicate  
20 what kind of government they want. Mention was made of the  
21 separation of the powers of government i. e., legislative,  
22 executive, and judicial and the necessity of maintaining the  
23 checks and balances for which our government has been famous.  
24 Gladstone had said that our Constitution was one of the most  
25 remarkable documents ever devised by the mind of man.



1 Mrs. Hermann then discussed some of the mechanics of  
2 writing a state constitution pointing out that it was the  
3 first time that a task of this sort had been done by and for  
4 Alaskans entirely, and that in this instance the Federal govern-  
5 ment was taking a back seat. She advised that the Act creating  
6 the convention had authorized a recess, at the discretion of  
7 the convention itself, for a period not to exceed two weeks,  
8 for the purpose of holding such hearings as this i. e. to  
9 gather public opinion as to what should go in the constitution  
10 and that 17 such meetings were being held through out the  
11 Territory. She advised that there were 11 committees writing  
12 sections of the constitution, plus three 'housekeeping  
13 committees to take care of odds and ends. She pointed out that  
14 none of the provisions or articles had been adopted, or would  
15 be until the opinions of the people had been brought to the  
16 attention of the convention.

17 A discussion of the section on legislative apportion-  
18 ment then followed, which is the section dealing with the  
19 composition of the state legislature. Mr. McNees reiterated  
20 that no section had yet been adopted and advised that the  
21 legislative apportionment section was one of the most compli-  
22 cated. He explained that in order to set up a representation  
23 that would provide the most adequate coverage by population  
24 and by area, a method was chosen based upon the premise that  
25 the house should represent the population factor and the

1 senate the geographical factor. In order to accomplish that  
2 most logically what is known as the etanical watershed method  
3 was followed in which, with very few exceptions, lines were  
4 drawn along the tops of mountains confining areas with a  
5 common social relationship. This resulted in 24 areas separated  
6 more or less by natural mountain barriers, which would repre-  
7 sent the election districts. It was pointed out that although  
8 some land areas were larger than others the lines had been  
9 drawn to take into consideration the confining areas of popu-  
10 lation which ranged from 23,210 in the Anchorage area to a low  
11 of 1419 on the Yukon flats; these figures being based on the  
12 1950 population figures which were the only ones available.  
13 Mr. McNees further explained the quotient factor of dividing  
14 the number of representatives in the house (40) into the figure  
15 of 108,069, which was the basis upon which the figure of  
16 representation in the house would be reached. He advised that  
17 a modifiation had been granted which would give representa-  
18 tion to any area which had half that figure within the area  
19 plus 1 which would assure representation in each area unless  
20 it was very small. The quotient factor was divided so as  
21 to assure one representative from each district and the balance  
22 over that to be divided to cover what are known as the most  
23 deserving areas. Mr. McNees further explained the quotient  
24 factor and described how different sections in the Second  
25 Division had been divided i. e. by drawing a line on top

1 of the Brooks range, thus leaving the Carter-Barrow area in  
2 one of these representative districts, a second area being  
3 the Lisburne-Kotzebue Sound area etc.

4 Mr. McNees further explained that each two of the  
5 representative districts would be granted a senator, plus  
6 two at large which, in this Second Division, would total 4.

7 Mr. von der Heydt then asked if that meant there would  
8 be 4 senators in what was the old Second Division instead of 5,  
9 and Mr. McNees advised that such was correct.

10 Mr. Harwood asked if the judicial divisions as they are  
11 now were going to be done away with and Mr. McNees advised  
12 that there was some very strong feeling that this should be  
13 done although the tendency at present was swinging back to  
14 the old judicial lines, particularly for senatorial representa-  
15 tion.

16 Mr. Harwood asked if having four senators instead of five  
17 wouldn't disturb these judicial lines and Mr. McNees replied  
18 that that would be correct but that it would give some sections  
19 more senatorial representation.

20 Mr. Harwood indicated that he was not in favor of lessening  
21 such representation.

22 Mr. McNees indicated that there was very strong feeling  
23 regarding house representation on a population basis and  
24 senatorial representation on a geographical basis and advised  
25 that if enough people wanted to make a change they could very



1 well do so and that these hearing were an excellent opportunity  
2 for individuals and groups to make their opinions known.

3 Miss Jolley asked the purpose of setting a permanent  
4 figure rather than leaving it elastic, indicating that someone  
5 set such a figure or it was dictated by geographical areas and  
6 that such was not functional.

7 Mr. McNees advised that the tendency at present was to  
8 keep the size of legislative bodies small because if they  
9 comprised too many individuals too much time was lost in  
10 getting organized. He advised that the legislative committee  
11 on which he served had arrived at 40 as a maximum figure but  
12 that such figure need not be filled immediately.

13 Miss Jolley advised that she though setting it on a func-  
14 tional basis was the important thing.

15 Mrs. Hermann invited opinions on that and other questions  
16 advising that she was also inclined to feel that the number  
17 of senators should be the same for each division or geographic  
18 area that could be called equal but that she could also see the  
19 thinking of the people at the convention, explaining that the  
20 southeastern Alaska division with approximately 28,000 people  
21 would have five senators while the Second Division would have 4  
22 and the Third Division with between 45 and 50 thousand would  
23 have 6 senators.

24 The point was brought out that this would disturb the  
25 balance of power very considerably and that the Second Division  
26 probably would no longer hold the strategic position it always  
27 had and that opinions on the subject should be registered

1 before a final draft of the article was reached. He advised  
2 that if information were gathered on the subject, it would  
3 pretty well demonstrate that the candidates for the constitu-  
4 tional convention did not come from the larger cities as a  
5 whole and that there may have been a little bit of fear in  
6 the public mind that the larger sections, such as Anchorage,  
7 would dominate, but that it hadn't worked out that way at all.

8 Mrs. Hermann indicated that there had been a good deal  
9 of discussion about retaining the old lines but that even if  
10 they got all the votes from the Second Division they might  
11 not be able to do it.

12 Senator Jones questioned the necessity of drawing up  
13 new divisions when Congress hadn't yet granted the right to  
14 do so, and hadn't even said what we would be given. He men-  
15 tioned a mining reserve which was being talked about and  
16 asked where it was going to come from and what it was going to  
17 include. He advised that he didn't believe such divisions were  
18 a matter for legislation at this time but should be taken care  
19 of after statehood was reached; that if such was done as a  
20 Territory it might have to be all changed after statehood and  
21 that he couldn't see any purpose in trying to do it at this  
22 time.

23 Mr. McNees advised that the next problem was ratification  
24 of the constitution by the people of Alaska and that if it  
25

1 wasn't ratified it would be nullified and that after that, the  
2 next task would be to get Congressional approval; that it  
3 might be possible to get statehood at the next session of  
4 Congress if we were willing to give a large portion of our  
5 Territory to the government as a reserve but that the people  
6 of Alaska didn't want that. It was brought out that we were  
7 following the lead of many other states in writing a constitu-  
8 tion prior to attaining statehood and that if we could have  
9 a good constitution approved by the people of Alaska he thought  
10 we would be that much nearer statehood.

11 Mrs. Hermann invited further questions and criticisms  
12 of this section and advised that although it might be some  
13 time before statehood was attained, the convention had to take  
14 into consideration that the constitution should be adaptable  
15 to progress.

16 Mrs. Emons asked how this division would affect the voting  
17 in regard to other offices in state business such as health,  
18 welfare and whether they would be voted on or appointed.

19 Mr. McNees advised that some of this would no doubt carry  
20 over into other offices as well; that voting strength was  
21 necessary for all offices that were voted upon but that there  
22 would likely be some changes in this section too.

23 Mrs. Hermann then discussed what had been proposed in  
24 regard to the legislative, judicial and executive branches of  
25 government. She pointed out that the committees on suffrage,  
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1 elections and apportionment and on legislation, meeting  
2 entirely separately, had both come up with the same number  
3 of senators and representatives, independently of each other.  
4 She advised that the legislative committee had proposed a  
5 bi-cameral legislature and that a proposition had been made  
6 to pay legislators a yearly salary and that there be sessions  
7 of the legislature every year - 30 days one year and 60 the  
8 next etc; the theory behind the yearly salary being that they  
9 were always in office and a special session could be called  
10 without paying out any more money. She advised that there was  
11 a good deal of criticism and opposition to what might be a  
12 salary of \$5000.00 a year and that she, herself, thought it  
13 considerably higher than we ought to pay or could afford to  
14 pay for a part time job which would not seriously interfere  
15 with other businesses the legislators might have.

16 Mr. McNeas further discussed the basis for the yearly  
17 salary idea, the thought being that the usual sessions of 30  
18 or 60 days might not be time enough to handle all the matters  
19 involved, particularly during the early days of statehood, so  
20 why not have the legislature on call continuously, with the  
21 members being paid an annual salary large enough to attract  
22 qualified, capable people. He advised that the present dean  
23 of the University of Colorado law school thought that it was  
24 a very fine idea - and that he had been a legislator for many  
25 years.



1 Mr. Goodrich asked what controls or restrictions would  
2 be placed on the governor in regard to these appointments.

3 Mrs. Hermann indicated that she did not believe legis-  
4 lative confirmation was called for and Mr. McNees advised of  
5 a provision which provided for definite review of any changes  
6 in administrative structure made by the governor, by both  
7 houses jointly. He also advised that another section provided  
8 that if the governor were unable to continue in office because  
9 of death etc., the secretary of state would succeed him, then  
10 the president of the senate and then the speaker of the house,  
11 so that whoever became the head of the government would be an  
12 elected official and not an appointed one. He advised that  
13 this was similar to a system adopted by the State of New York  
14 which seemed to have worked out very well.

15 Mr. Goodrich then asked the proposed length of term or  
16 office, and Mrs. Hermann advised that it was four years with  
17 only two terms in succession.

18 Mr. Goodrich asked if this wouldn't mean an almost total  
19 turnover of the executive offices and the personnel every time  
20 the party went out and the comment was made that in that case  
21 it usually does anyway.

22 Mr. Harwood asked what was to prevent the governor from  
23 appointing his own group who could filch the treasury at will.

24 Mr. McNees advised that he believed such would be almost  
25 impossible if watched and if the state of affairs were known

1 as they should be. He advised that if impeachment or recall  
2 powers were left strong that would be a safeguard and in any  
3 event in case things were not to your liking you would get a  
4 change every four years.

5 Miss Jolley asked what provision was made for the  
6 qualification of employees for their jobs, not only in high  
7 appointive positions but for clerks and their office jobs.

8 Mr. McNees advised that it was felt that this was largely  
9 a matter of legislative responsibility and that one of the  
10 things they had to watch constantly, probably one of the most  
11 important things, was to maintain the rights of the legislature;  
12 that there was a tendency to take away their rightful powers  
13 and try to incorporate them in the constitution. He advised  
14 that the constitution should remain a basic law and that they  
15 were trying to get such understanding on the part of the dele-  
16 gates and the people.

17 Senator Jones at this point advised he wanted to go on  
18 record as being absolutely opposed to a strong centralized  
19 government and to giving the governor power to do all that  
20 had been proposed. He advised that he believe the people of  
21 Alaska much preferred to elect the officers to run their  
22 various departments and that while some governors would be  
23 all right, others wouldn't be. He thought it would be pretty  
24 much of a dictatorship and he didn't want that.

1 Mrs. Hermann advised that there was a good deal of  
2 feeling either way.

3 Mr. Jones asked why a lieutenant-governor wasn't elected  
4 instead of a secretary of state and Mrs. Hermann advised that  
5 actually they were the same but that there was a tendency  
6 throughout the country to abolish lieutenant-governorships in  
7 favor of secretaries of state; that actually their functions  
8 were the same.

9 The judicial branch of government was then discussed  
10 and Mrs. Hermann indicated that this plan had been favored  
11 almost entirely by the judicial committee and that it called  
12 for the appointment of judges for an approximate period of  
13 three years, the appointment to be made by the governor from  
14 a list furnished by a committee consisting of three lay people  
15 and three lawyers. The judges would serve a three year pro-  
16 bationary period and then their names would be put on the  
17 ballot. They would not be running against any one but would  
18 be running on their records. If a judge's record was so  
19 approved, he would be appointed for 10 or 12 years with re-  
20 tirement mandatory at 70. She said that there would be a  
21 unified court system for the whole of Alaska with every judge  
22 having equal jurisdiction over every case in Alaska. Assign-  
23 ments were to be made by the chief justice and the legislature  
24 was permitted to increase the number of judges as the case  
25 load indicated. She advised that this section had met with

1 no opposition and would probably be adopted.

2 Mrs. Hermann then mentioned some of the other problems  
3 such as those dealing with local government, natural resources,  
4 and the bill of rights. She advised they had constitutional  
5 revision to take care of as well as ordinances and transitory  
6 measures.

7 She indicated that the idea in regard to natural resources  
8 was to protect them but not to the extent that they couldn't  
9 be used for the benefit of the people/

10 She advised that it was not planned to have a county  
11 system of government comparable to that in many states, although  
12 a system of boroughs had been set up, and that this would do  
13 away with the duplication of taxes and services etc. so often  
14 found in the county systems in the states.

15 Mr. von der Heydt asked if there was a connection between  
16 the natural resources section as being written in the constitu-  
17 tion and the public lands which were being given to the state  
18 and how that was being done.

19 Mrs. Hermann replied in the affirmative and advised that  
20 they had to be careful to follow the requirements of the pre-  
21 sent enabling act in this as well as other things, and that  
22 they would be required to accept the requirements of the  
23 enabling act as a basis.

24 Mr. von der Heydt advised that his thought was whether  
25 the state could pick or choose the lands that it would be



1 getting from the Federal government and Mrs. Hermann advised  
2 that one hundred million acres had been allocated under the  
3 enabling act and that the new state would have 25 years to choose  
4 the portions of land it wanted.

5 Mr. Jones asked that - or whether the proposed changes  
6 advocated in Congress by the mining convention held in Las  
7 Vegas were what she referred to as not being able to sell  
8 such state-owned land and Mr. Hermann replied in the affirmative.

9 Mr. Jones then commented that we had nothing for certain  
10 as to whether they would give us a hundred million acres or  
11 one million or what, and also questioned what regulations  
12 would be in effect for the disposition of such land or what  
13 protection for damage to land already settled would there be,  
14 from those going in after minerals etc.

15 Mr. McNeese then advised of the primary right of such a  
16 settler for use of the land for farm purposes etc. and that  
17 any subsequent person going after minerals etc. would have  
18 to pay for damages or that right.

19 Miss Jolley advised that she didn't understand a point  
20 regarding the assignment of judges and Mrs. Hermann advised  
21 that the judges, appointed by the governor, would be assigned  
22 to their respective positions where needed by the chief justice.  
23 She advised that under statehood there would be a complete  
24 court system for the state including a supreme court.

25 Miss Jolley then asked how many levels of courts there  
26 would be.

1 Mrs. Hermann replied that the constitution would  
2 provide for district courts similar to those we now have,  
3 for a supreme court and would permit the legislature to  
4 establish lower courts including probate courts and courts of  
5 special jurisdiction.

6 Mrs. Emons mentioned an editorial which she thought to  
7 be to the effect that under the proposed division this area  
8 would be left without a local representative for the Depart-  
9 ments of Health, Welfare, etc. and that a protest had been  
10 made sometime ago regarding the re-apportionment of the Second  
11 Division.

12 Miss Jolley advised that if was felt the Department of  
13 Welfare representative etc. might be lost to this area if it  
14 were lumped in with other divisions.

15 Mrs. Hermann advised that this misunderstanding probably  
16 arose from an individual proposal that the Second and Fourth  
17 Divisions be combined - which did not last at all. She further  
18 said that proposals must first pass the committee and then  
19 the floor and mentioned the problems in trying to get the 55  
20 members of the constitution to agree on the proposals, and  
21 then after agreement was reached they still had the job of  
22 drafting a literary composition out of the drafts of the 14  
23 different committees. She reiterated that if the people  
24 wanted to take action on anything, or get their own opinions  
25 heard they should get letters or telegrams into the member  
26 of the convention.

1 She said that such action should be taken quite soon if the  
2 people wanted their own voices to be heard.

3 Mr. Eben asked, with natural resources in mind, what  
4 was being done about Indian reservations in the different  
5 villages and said that he and the people where he lived felt  
6 that they were detrimental to the progress of the people.

7 Mr. McNees advised that he believed there was a definite  
8 section on the protection of native lands.

9 Mr. Jones said he believed Mr. Eben was objection to  
10 the reservations as such, and Mr. McNees then advised that  
11 he didn't think there had been any mention of that.

12 Mrs. Emons commented that this was a Federal reservation,  
13 and Miss Jolley advised that she didn't believe it was permissible  
14 in the states to choose such lands, for state lands.

15 Mr. McNees then advised that the enabling act was unique  
16 in allowing the state of Alaska to choose the hundred million  
17 acres given to it, nearly one-third of the entire Territory.

18 Mrs. Hermann said she didn't believe we could choose  
19 land that was in an Indian reservation.

20 Mr. Eben again advised that the people in his village  
21 (Unalakleet) were opposed to reservations; that they were  
22 holding his people back from doing things on their own and  
23 Mr. McNees said he felt that this should be brought to the  
24 attention of the convention.

1 Mr. Jones said he hadn't seen a copy of the enabling  
2 act and Mrs. Hermann indicated that two proposed acts were  
3 before congress, both very similar and it was hoped that one  
4 of these would pass the next session, and that was the theory  
5 under which they were working.

6 Mr. Jones said that nowhere had he been able to find a  
7 distinct reference as to what disposition would be made of  
8 native citizenship, i. e. the aboriginal rights of the natives.

9 Miss Jolley advised that there was strong feeling regarding  
10 this in the states in all the native bortherhoods and Indian  
11 organizations about statehood for Alaska with reference to  
12 what was done about native lands.

13 Mrs. Hermann said she didn't believe such feeling had  
14 penetrated up here yet.

15 A question was then asked as to the large amount of land  
16 to be given Alaska as a state whereas in the states it was  
17 usually 5% or 3% etc.

18 Mrs. Hermann advised that a positive allocation in the  
19 bill now pending had been made of 103 million acres of land  
20 and that although some of the older bills did provide a per-  
21 centage this one made such an allocation.

22 Mr. Jones then questioned the rights of schools to  
23 land previously granted them.

24 Mrs. Hermann indicated that such allocations would be  
25 abolished under the new constitution; that there would be  
26 no allocations of lands or money for special purposes; they  
27 would not be earmarked, and Mr. Jones commented that we gave



1 them to the Territory and now we are taking them away, but  
2 that some of those that had been surveyed would be retained  
3 because the Courts had so decided.

4 Mrs. Hermann then asked if there were any further  
5 questions or anything anyone would like to know and commented  
6 that the proposed bill of rights very closely followed that  
7 of the Federal constitution and that there was a special  
8 section on the bill of rights and preamble; also a section  
9 dealing with education, public health and public welfare.  
10 Ordinances and transitional measures had a committee of their  
11 own setting up articles dealing with education, public welfare  
12 etc. and this committee had come out in favor of leaving to  
13 the legislature the power of making laws in regard to the school  
14 system and public health and public welfare. She indicated  
15 that she was going to try to include a provision of a unified  
16 public library service as well as public schools and other  
17 educational institutions; the principal safeguard being to  
18 see that public moneys would not be spent for private institu-  
19 tions or schools and that all support given to educational  
20 institutions would be to public schools.

21 Mrs. Hermann mentioned the academic atmosphere at College  
22 where the constitution was being held and the splendid coopera-  
23 tion they had been given by the University. She mentioned the  
24 complete representation of the different parts of the Terri-  
25 tory and the gratifying fact of the hard work that everyone  
26 was doing.

