FOLDER NO.

210.3

C O P Y

Law Offices
of
WILLIAM E. COLBY GEORGE W. WILSON
1806 Mills Tower
San Francisco

February 5, 1956

Hon. Burke Riley
Secretary, Committee on Resources
Constitutional Convention
Constitutional Hall
College, Alaska

Dear Mr. Riley:

At the request of Mr. Vincent Ostrom, I am writing you regarding the proposed draft of policy with respect to Mineral Lands and other Resources. I regret not to have given this matter earlier attention. Last year at the age of 80 I retired from active practice of the law and only visit the San Francisco office occasionally, when a matter of urgency arises. My associate, Mr. George W. Wilson, continues handling my mining practice. Where I am now living at Big Sur, I have no stenographer or typist available, hence this delay until I have been called to my San Francisco office.

I have read Sec. 11 of the draft on "State Lands and Natural Resources". It is evident that you have given much thought to this subject. The statement expresses what, in my opinion, is a very comprehensive and flexible policy toward the mineral lands which the new state of Alaska will in all probability receive from the federal government.

California and most of the other early Western States "squandered their patrimony" by selling as fast as possible the lands embraced in the large grants they received from the federal government. Because of this undue haste, they received only a pittance of the values these lands were later shown to have. On the other hand, the States of Washington, Idaho, etc., which later entered the union of states, aware of the folly of this hasty disposition of lands at any price, reserved rights, especially to minerals, and subjected them to leasing, thus bringing in large continuous reserves, which have been applied to educational and other needs of these states. My advice would be strongly in favor of seeing that this wise policy of reserving title to the state to all lands that fiscal requirements did not demand be disposed of outright, in order to obtain some ready money for the multitude of purposes which a new state will certainly require money for, be followed.

Hearings and Statements — Committee on Resources

Hon. Burke Riley February 5, 1956

The laws of the states of California (which very late saw the wisdom of retaining title to and leasing some of its lands), Washington, Idaho, should be consulted and the best procedure for leasing etc., adopted.

With respect to reservation by the state of surface rights to mineral lands for uses other than those required by the mining operator, too great care cannot be taken in the formulation of a workable policy. You are doubtless aware of the long existence of the situation here in the Western States where, under the guise of acquisition for mineral purposes, claims were taken up under the federal mining laws and then the lands devoted to entirely foreign purposes, such as lumbering, recreation homes, motels, etc. As a result, the mining industry, the U. S. Forest Service, and conservationists got together and formulated a bill, enacted into law by last year's Congress, which defines these respective rights. "Heaven knows" that, representing the miner as I have for over half a century, I realize the hard lot of the miner should not be made harder by undue restrictions on the freedom of his operations, but it is possible "to strike a happy medium" and not hamper the bona fide miner. For this reason, a study of the Act I refer to, and the reports of the hearings leading up to its passage, will prove most beneficial. (Public Law No. 167, 84th Congress, H. R. 5891).

Too great care cannot be taken in reserving lands outstanding for recreation values. I was Chairman of the California State Park Commission for nine years and "know whereof I speak". Most of the 1000 miles of California's coast had passed into private ownership and California had to buy back beach and other lands at enormous prices in order to create an adequate park system. Someday Alaska will find itself in the same need for recreation and park areas, state owned, that California now finds itself. The revenue from these hordes of visitors to its state parks justifies a long look ahead in the case of Alaska and if it has not already done so, a committee of those who are sensitive to recreation needs should be appointed to canvass the situation and recommend reservations of outstanding beaches, forest land, mountain areas, lands possessing archeological or historical interest, etc.

I am sending you under separate cover some reprints of articles bearing on some of your problems. The project you are working on is most fascinating and I wish you all success in your all important work.

Very sincerely yours,

/s/ William E. Colby
(Associate Editor of "Lindley on Mines" and outstanding authority on mining and public lands law.)

SD 13 X Committee on Resources — Hearings and

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Unalakleet, Alaska
Dec 12 1955

Dear Col Muktuk Marston

I have recive a letter on December 3rd which contains newspaper Clipping. Which I let our Mayor Henry Nashalook bring up during our Village meeting to the people. I hope each and everyone here have in their mind something to say that might be helpfull during Alaska Constitutional Convention at our University of Alaska. During Native land problems. I hope they send a written letter too.

I have some to bring up myself in conection with our land problems. Mostly of our fishing camps and our homes. Around here in Unalakleet also around outlaying Villages. We have fishing Camps from way back without anything to show in papers Claims or Clear titles. Only fish racks tent frames and cash stands to show. and these are particular places for fishing and camping wather they are in the beach on rivers. They are the main places we are to catch our winter needs each year. By what I have gone through I can say this much. Its pretty hard winter, when some outfit gets into fish camp and use it for nothing. I haven't fish at my camp site, **for three season's** because some out fit is working in it. I would sugast strongly we need to have our fishing camp rights and settle it. Settle to have any out fit or any orgainizations as grup to pay for using any camp sites. Instead of doing anything as they plase with any camp site. This part of Alaska is still hard living. It is not developed yet no roads build yet to go any place where we want to or to go nar our trap lines. We still use dogs to go places in winter. We need to have our seasonal lively hood to get by each year til something is done to this part of country.

Also our homes here in Unalakleet in other Villages too. We dont own lots for our homes. We don't have any clear title for our homes. We have been under reservation too long most of us young people beginning to relise that. reservations are Just getting us behind on many ways of living as an average Americian Citizen live. We begin to relise that we have been put aside as Natives too long. We young people would like to see our Children grow up as any average American citizen live with equal rights as white man. We are Just as good human as any body from White to Black.

Heres Wishing you lots of luck.

Your frend

Mr George Lockwood

Unalakleet, Alaska

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SUBJECT: Preservation of Anthropological, Historical and Paleontological Sites

TO: Mr. Maurice Johnson

FROM: Dr. Moberg

Should some statement concerning these sites be included in the Alaskan state constitution?

The Model State Constitution contains this section in the Public Welfare Article (immediately following the conservation section):

> "The natural beauty, historic associations, sightliness and physical good order of the state and its parts contribute to the general welfare and shall be conserved and developed as a part of the patrimony of the people, and to that end private property shall be subject to reasonable regulation and control."

No state constitution specifically mentions this type of sites. However, in practice most of the states have created Boards, Commissions or Agencies to include the preservation of these sites by the state. The 1955 edition of the Book of the States summarizes:

> "Recreation and state park programs have received growing attention over the last several decades. These include the establishing and maintaining of natural areas for general recreational activity, planning and promoting of recreational programs, and advertising and publicizing of recreational and vacation attractions.
>
> "Most of the states have set aside scenic or historically important sites. In addition, many states maintain lakes and beaches, roadside parks and picnic areas, camp sites and trails, and other recreation areas. More than half of the states conduct out-door recreation programs; many of these are in conjunction with conservation education programs for boys and girls of school age."

Since the turn of the century most of the new state constitutions have included a section on conservation, recognizing the urgency of preserving and utilizing our natural resources.

The 1945 Missouri Constitution sets up a conservation commission in Section 40 of Article IV:

> "The control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including hatcheries, sanctuaries, refuges, reservations and all other property

owned, acquired or used for such purposes and the acquisition and establishment thereof, and the administration of all laws pertaining thereto, shall be vested in a conservation commission consisting of four members appointed by the governor, not more than two of whom shall be of the same political party."

New York's 1938 constitution contains this in its conservation Article XIV:

"Section 1. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed. Nothing herein contained shall prevent the state from constructing, completing and maintaining any highway heretofore specifically authorized by constitutional amendment, nor from constructing and maintaining not more than twenty miles of ski trails thirty to eighty feet wide on the north, east and northwest slopes of Whiteface Mountain in Essex county, nor from constructing and maintaining not more than twenty miles of ski trails thirty to eighty feet wide, together with appurtenances thereto, on the slopes of Belleayre mountain in Ulster and Delaware counties and not more than thirty miles of ski trails thirty to eighty feet wide, together with appurtenances thereto, on the slopes of Gore, South and Pete Gay mountains in Warren county."

Hawaii in Article X, Section 1 provides that:

"The legislature shall promote the conservation development and utilization of agricultural resources, and fish, mineral, forest, water, land, game and other natural resources."

The Missouri and New York constitutional provisions on this subject could be readily expanded to include these sites. Hawaii was even broader in its provision by including the words "and other natural resources" which would cover this type.

Referring to Alaska's peculiar position, it is easily apparent that our situation is quite different from any other state or territory. By having control of only one or two percent of our land, we have been in no position to conserve or protect this type of sites. However, a forward looking step was taken in the 1953 legislature by the creation of our own Department of Lands, and including a provision that the Land Commissioner can accept and administer lands granted or transferred for park or recreation purposes.

Certainly, when we gain control of much of our land (either before or with statehood), this problem of land use will be a tremendous one. The backlog and pressure of great areas of land use to be decided

upon may mean that this type of land use could be neglected or forgotten. For this reason I, personally, deem it advisable to include these sites in the natural resources section of our new constitution.

Another valid reason for their inclusion stems from the fact of Alaska's great strategic value in the world scene. The thorough scientific study of the Arctic world is already well under way. At the moment the concern is primarily over military and aerial transportation uses. Soon it will broaden to include use of the Arctic for support of the world's bulging population. If these important anthropological, historical and paleontological sites are not adequately preserved, much damage will be done to this needed scientific study.

Therefore, I sincerely believe that the inclusion of these sites in the natural resources section will ensure that the future state legislatures will not ignore, forget or neglect any phase of our natural resource uses.

cc: Dr. Skarland

December 6, 1955

RESOURCES COMMITTEE

Members of Committee on Natural Resources
Alaska Constitutional Convention:

SCHOOL LANDS

By Ernest N. Patty, President of the University of Alaska

In answer to the invitation to appear before your committee, I respectfully submit the following with regard to lands reserved for schools, both common schools and the University of Alaska.

1. In making future grants of school lands for education purposes, the old method of basing grants on township surveys should be avoided if possible.

a) Lack of unsurveyed lands in Alaska. Our great-grandchildren will face a similar problem.

b) University granted Section 33 in each surveyed township in the Tanana Valley. This brings, at present, very little income to the University.

Much of Tanana Valley unsurveyed.

Military reservations.

Much of it at present is "moose pasture".

2. In making grants of school lands, should specifically mention common schools and the University of Alaska.

3. Should permit sale of school lands at rate of not more than 100 sections in any one year; and under proper safeguard, should permit leasing up to 50 years.

Should permit schools to have mineral rights on school lands.

Income from tide lands and offshore lands should be

for the use of common schools and the University (Believe set up this way in Federal Act). Division formula between common schools and the University could be determined by State Legislature.

Reccommendations to Constitutional Delegates

Juneau, Alaska - December 27, 1955

From Alaska Sportsmen's Council, Juneau - (See Recess Hearings, Juneau.)

It is our feeling the prime reason for a Constitution is to provide guidelines or limits of authority for the Legislative, Judicial, and Executive branches of the State. It fails of its purpose if it does not accomplish this. The proposed article on resources seems to deal only in broad philosophy without providing guidelines or suggesting how the principal resources are to be managed. We feel this should not be left to chance -- they are too important to all Alaskana.

We believe Alaska should benefit by the experiences of the various states in the matter of resource management. Many of them have amended their Constitution to provide for Game administration -- others have handled the matter by Initiative or Referendum, because they found it necessary to do so. There are compelling reasons why some provision for management of wildlife should be included in the Constitution. Among the most important are:

1. Wildlife and game fish are more important to Alaskans than they are to any of the states. Their management has an impact on a very substantial part of the population.

2. The wildlife administration, through license sales to sportsmen, trappers, guides and trophy fees, will be self sustaining. As in no other Department, there will be attempts to withold funds or divert them from the purpose intended by the license buyer. If any diversion occurs, Federal Aid funds will be lost and the whole program will be in jeopardy. The program is extremely vulnerable to political manipulation.

3. There is a widespread interest in wildlife management throughout the states. They insist provisions must be definite in Alaska to provide for good administration. National organizations are watching the situation closely. They can be expected to oppose Statehood or transfer management responsibility or acceptance of the Constitutional provisions by the Congress — unless guidelines for wildlife management are set forth. They know what has happened in many states and they feel a direct interest in these resources.

4. Alaskans are in agreement these resources shall not become a political football ar be dominated by pressure groups. For well established reasons they want separate Commissions for wildlife and commercial fisheries and they do not want these programs to lapse or be controlled by selfish groups.

The Territorial Sportsmen believe the Missouri state constitutional provision is the best in the U. S. and this is endorsed by leaders in the conservation field. They would like to see a modified form adopted for Alaska. As an absolute minimum they believe nothing less than the following will be acceptable:

" Regulation and management of the commercial fisheries and of the wildlife including game fish, shall be delegated to separate commissions under such terms as the Legislature shall provide. Provision shall be made by the Legislature for appointment of commissioners to staggered terms to provide the necessary continuity of programs and prevent undue political interference with proper management.

In the administration of wildlife resources, license fees and other revenues shall be available to the commission without reservation and dedicated to management of these resources."

Above minimum provisions can be added to Section 2 of the proposed Article on Resources. Hunters and fishermen as well as commercial fishery interests strongly support this provision.

This would leave to the Legislature the job of setting up these departments, specifying the manner, terms of appointment, and number of commissioners, and delegations of authority and duties. Appointment of a Director can be provided as the Legislature sees fit. A provision will need be provided to set forth the terms under which the Director may select personnel and for a Civil Service or Merit system to attract qualified and competent personnel. This, also, will be a job for the Legislature. Without above provisions it is evident to everyone that no guidelines will exist and the Constitution will have failed to provide for the establishment of proper administrative machinery to safeguard these all important resources.

There is no evidence at hand to indicate a need for such action with regards to minerals, forestry, or other similar types of resource management. Obviously there is nothing to prevent the Legislature from creating like administrative units for them when or if the needd shall arise. The unique importance of both wildlife and the commercial fisheries in the future of Alaska should receive this special consideration.

Hearings on Resources 1

STATE WATER LAW REVISION POSES DANGERS FOR WILDLIFE

Wildlife agencies and sportsmen in the Midwest and East who have grown accustomed to taking fish and game waters for granted are likely to find themselves holding an empty bucket under a dry spigot if the present movement to revise state water laws is allowed to proceed without thorough study and alert participation. At least fourteen states which have followed the doctrine of riparian rights, or whose water laws are based on the historic Northwestern Territory "Ordinance of 1787," saw legislative consideration of the problem this year. One state, South Dakota, passed a new law that abandons riparian doctrine and substitutes the Western system of "appropriation for beneficial use."

The states of Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Maryland, Missouri, New York, Ohio and Oklahoma have new commissions or committees created by their legislatures to study water-law revision and related problems. There may be others that have not yet come to the attention of the National Wildlife Federation.

In Arkansas the legislature created a special 11-member commission to study surface water rights legislation but made no funds available for its work. North Carolina lawmakers created a State Board of Water Commissioners with emergency powers to divert water and charged with conducting a study of the State's water resources.

The general assembly of South Carolina declined again to enact an "appropriative rights" law recommended by a Water Policy Committee created two years ago.

Irrigation Comes to the East

The trend toward revision has been prompted by two basic factors: (1) Growing water shortages and (2) increasing use for irrigation. Agricultural groups have been anxious to take advantage of new federal-subsidy and federal-loan programs designed to make irrigation developments less costly to come by.

One of these federal-aid programs is the small watersheds program spelled out in Public Law 566 passed by the 83rd Congress in 1953. As originally conceived by many of its sponsors, the small watersheds act was supposed to accelerate a program of good land-use, soil treatment and runoff-control devices such as terraces, contour cropping and headwater check dams. The purpose was to hold water on the uplands and diminish flood peaks downstream, incidentally but importantly increasing the productivity of the land. Indeed, the full and official title of Public Law 566 is the "Watershed Protection and Flood Prevention Act."

The law was so written, however, that drainage and irrigation could be encompassed. It has been so interpreted and administered. Many of the small-watershed projects proposed to date have been mostly drainage and/or irrigation. In contrast to the principle of Western reclamation projects where the water users are supposed to repay the costs, irrigation beneficiaries under the Small Watershed Act may apply for and receive a direct and non-reimbursable subsidy of federal (taxpayer's) funds.

Mail to W.O. "Bo" Smith
Constitutional Convention
College Alaska
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Hearings and Studies - Natural Resources

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SCS Plays Leading Role

The Soil Conservation Service is the Department of Agriculture bureau responsible for running the small watersheds program. The administrators have found the rather-vague riparian-rights doctrine a stumbling block to irrigation developments. Landowners diverting water for irrigation upstream might find themselves enjoined by riparian owners downstream. The riparian doctrine, inherited from English common law, says in brief that a riparian owner has a right to take as much water from a stream as he needs for domestic uses, including livestock water, but beyond that he must permit the flow to continue downstream undiminished and unpolluted.

The Soil Conservation Service has figured prominently in the current movement for water-law revision. The name and advices of the Service's water-law specialist, C. E. Busby, have appeared repeatedly in the various state conferences and publications on the subject. Mr. Busby served as unofficial consultant to the South Carolina Water Policy Committee whose proposed new law, although rejected to date by the South Carolina legislature, has been touted as a model in numerous other states.

The SCS effort has been directed toward replacing the riparian doctrine with the Western doctrine of appropriative rights. In brief and general terms, the Western system is that the first person or persons to lay claim to, or "appropriate," the water, gets it so long as the use is continuous and considered beneficial under the law.

Shortcomings of Western Law

The appropriative doctrine was developed in the arid West where water was always scarce and fought over from the earliest days of settlement. In general it has worked well, although fish and game interests have often found themselves helpless under the law when irrigation users or hydroelectric interests wanted to take the last drop of water in a stream or drain a reservoir dry. In a state like Arizona, for example, the Game and Fish Department usually has to trade for or purchase water rights if it wants to develop a new fishing lake or waterfowl marsh. If the water rights cannot be acquired--the fish or game project dies on the planning board.

This deficiency occurs because in the early days no one realized the value of wildlife and the public recreation it can provide. With few exceptions the laws of Western states fail completely to recognize wildlife management as a beneficial use of water. In the few exceptions where fish or wildlife is mentioned, it is relegated to the tail-end of the priority system. Some recent court decisions, however, have indicated a trend toward such recognition.

Low Man on the Totem Pole

The danger to wildlife in the Eastern states lies in the zealous attempt to impose Western doctrine without modification and without safeguards to meet Eastern conditions. The touted South Carolina report gave scant consideration to wildlife and recreational values. The key section in the proposed South Carolina law put the hunter and fisherman way down on the totem pole in these words:

> "Appropriations of surface waters of the State shall not constitute absolute ownership or absolute rights of use of such waters, but such waters shall remain subject to the principle of beneficial use. Where future appropriations of water for different purposes conflict they shall take precedence in the following order, namely: domestic, municipal, irrigation, industrial, recreational and water power uses."

The switchover to the appropriative doctrine enacted by the South Dakota legislature this year wasn't quite as bad as the South Carolina proposal, according to information reaching the National Wildlife Federation, but even there recreation was stamped as an inferior use. A priority was established with domestic use, including watering of livestock, first. Municipal use is next and almost equal, followed by industrial, irrigation and recreation uses.

The new South Dakota legislation sets up a Water Resources Commission whose seven members are to represent (1) dry land farmers, (2) range livestock producers, (3) municipalities, (4) mining and timber industries, (5) soil conservation districts, (6) drainage districts, and (7) irrigation districts. It gives no representation to recreation and wildlife interests.

The Ordinance of 1787

The public interest in water resources, including wildlife and recreational values, appears to have better basic protection in those states that have constitutional provisions founded on the famous "Ordinance of 1787." Wisconsin is such a state. The Ordinance of 1787 was part of the basic law which created the old Northwest Territory from which several states subsequently were carved. Wisconsin's constitution follows the historic Ordinance in declaring that "the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the state as to the citizens of the United States..." In essence, this provision guarantees the public right to the use of public waters.

The Danger of Rigid Priorities

Water law revision probably is inevitable and necessary in many states as competitive pressures mount for dwindling supplies. CONSERVATION NEWS raises this question, however: Is it sound policy to spell out a system of rigid priorities in the statutes, giving certain kinds of water use preference over other uses? We believe it is faulty policy and bound to lead to new troubles.

It must be recognized that in one locality and situation, irrigation may be the most important use from the standpoint of the general economy and public welfare. But in another instance, municipal, or industrial uses, may well predominate. In still other streams or watersheds--and we suggest the Current River of Missouri and the Allagash of Maine as examples--the recreational and esthetic values may far outweigh all others from the standpoint of the public welfare.

Only recently, in a celebrated case well known to all conservationists, a federal Court of Appeals sustained the Federal Power Commission in a ruling that held fishing

ALASKA
DEPARTMENT OF FISHERIES
229 ALASKA OFFICE BUILDING JUNEAU, ALASKA
C. L. ANDERSON, DIRECTOR

COPY

November 15, 1955

Mr. W. O. Smith
The Constitutional Convention
College, Alaska

Dear Bo:

Your letter of November 3 was presented to the Fisheries Board at its recent meeting for consideration. After some discussion, there was unanimous agreement along the lines that you had proposed in your letter as follows: "that only a very general provision guaranteeing everyone an equal right of fishery and prohibiting the granting of any exclusive or several right of fishery can safely be made a part of the constitution." It might be well to include some general overall policy statement relative to the conservation of all our natural resources, including fish and game.

We do not believe that a fisheries board should be established by a provision in the constitution, but should be left to the legislature. The same would hold true for a game commission, if such were to be organized.

The Board has gone on record that it would go along on legislation to incorporate all fish and game in one department if that is the wish of the people. It is believed that such an organization would avoid duplication of efforts and be the most economical. The Board would not oppose the creation of a game commission if the legislature so desired. It would, however, be opposed to the inclusion of sport fish in a game department. Such a move would just lead to confusion and duplication such as now exists in the State of Oregon. The Oregon Fish Commission regulates commercial fishing of salmon, maintains salmon hatcheries and does research on salmon. The Oregon Game Commission regulates sport fishing of salmon, and also maintains salmon hatcheries and does research on salmon.

It is the concensus of the Board that all the above matters could well be handled by the legislature rather than be included in provisions of the constitution. Just in case this subject should come up for discussion, there is enclosed for your information a brief on this fish and game control problem. You will undoubtedly find it of interest.

The Board is in agreement with your general statement of policy relative to blocking of salmon streams and compensation for damages. However, if the constitution is to be kept as short and brief as possible, it might be that such provisions might best be handled by the legislature and included in a general fisheries code. On the other hand, if the constitution develops into a lengthy detailed document, then by all means the above provisions should be included.

All the Board members extend their best wishes for a successful convention.

Sincerely,

ALASKA DEPARTMENT OF FISHERIES

C. L. Anderson, Director

for the Alaska Fisheries Board:

J. H. Wakefield, Chairman

Kenneth D. Bell

Robert C. Kallenberg

Nels E. Nelson

Ira H. Rothwell

CLA:hw
Enclosure

Hearings and Statements on Resources

B R I E F

Since Alaska has been concerned with the possibility of taking over its fish and game resources from the federal government, the following pertinent excerpts from talks given on the subject "Should the Hoover Commission's Fishery Recommendations be Adopted?" are herewith listed. These talks were given at the 43rd Annual Convention of the National Canners Association on July 25, 1950.

The Hoover Commission, headed by ex-President Hoover, had 12 members. This non-partisan commission was formulated to promote economy and efficiency in federal government. The Hoover Commission looked into the proper placement of fisheries in the federal government.

Certainly the arguments following would apply to either Territorial, State or Federal government.

Appended is a copy of the "North American Fish Policy" adopted by the American Fisheries Society in 1954.

1. Statement by Albert M. Day, Director, Fish and Wildlife Service.

"With this divergence of opinion among the members of the Hoover Commission and the various task forces as to the proper place in government for the federal responsibility for fishery activities, it is not surprising that the resultant reactions of the public also have been mixed. The American Fisheries Society, organized in 1872 and now the oldest scientific biological organization in the United States, at a meeting in Winnipeg, Canada, last September, passed a resolution endorsing the task force recommendations of the Report on Natural Resources, with the exception that the Society opposed that portion of the report which recommends the separation of fisheries administration from wildlife administration.

"Likewise, a meeting of the International Association of Game, Fish and Conservation Commissioners, also meeting in Winnipeg, in September, passed a resolution endorsing the general purposes of the Natural Resources task force report, but also stated that they opposed the recommendation of the report which would separate fisheries from wildlife in the present Fish and Wildlife Service. Within the past few weeks, the executive officers and the legislative committee of the International Association again reaffirmed to Secretary Chapman their strong opposition to this proposal. The International Association is made up of representatives of all of the state conservation departments in the country, the great bulk of which administer both fisheries and

wildlife in a single organization of the state. In fact, of the 48 states only eight have separate departments devoted to commercial fisheries. In the other 40, commercial and sport fishery and wildlife management activities are all in the same department. The same, of course, is true in Alaska.

"To the contrary, the Pacific Fisheries Conference, composed largely of members of industry operating on the West Coast and in Alaska, by action taken at a recent meeting in California, adopted the following resolution, and I quote:

'Whereas, the consolidation by Executive Order of the former Bureau of Fisheries and the former Bureau of Biological Survey into one Bureau in the Department of the Interior, called the Fish and Wildlife Service, has been demonstrated as unsound, illogical and ineffective, and has not served to further the sound, efficient administration of fisheries, and whereas the Commission for the Reorganization of the Executive Branch of the Government, commonly referred to as the Hoover Commission, recommended that the administration of fisheries should be separated from the administration of wildlife: Now, Therefore,

'Be it resolved, that the Conference heartily endorses the recommendation that such separation should be made and also urges that the re-established Division of Fisheries should be transferred in toto to the Department of Commerce or to a new Department of Natural Resources if such a Department should be created and now, in whichever Department placed, fisheries should be under direct charge of an officer of the rank of Assistant Secretary.'

"It is to the assertion of the Pacific Fisheries Conference that the present organization has been demonstrated as 'unsound, illogical, ineffective, and has not served to further the sound, efficient administration of fisheries' that I wish to direct my remarks today. I challenge that statement as incorrect and I call upon the drafters of the resolution to furnish proof of their assertions. The present organization is sound, it is logical, and it is effective. In the 10 years it has been in effect, it has done more to further the interests of fishery management, conservation, and utilization than was accomplished in the three or four decades previously.

"The relations of the Fish and Wildlife Service with the Congress and the Bureau of the Budget are excellent. The needs of both fisheries and wildlife are given sympathetic attention both as to appropriations and as to legislation. This, in my opinion, is due in large part to the fact that practically every member of the Congress has a personal interest in something that the Fish and Wildlife Service is doing. If he or his constituents are not particularly interested in the commercial fisheries, it is a pretty safe bet that he either likes to hunt ducks and

geese or he enjoys fishing for trout or bass or blue-gills. Maybe he comes from the West and is more interested in the coyote and ground squirrel control program of the Service, or perhaps he wants to go to Alaska to hunt moose or brown bear. It is an assured certainty that if there is a Federal fish hatchery in his district, he is anxious to see that it produces as many fish for his sportsman constitutents as can possibly be done. I doubt that there is another single agency of government that has such wide interest for so many people as do the varied activities of the Fish and Wildlife Service."

NOTE: The above pertinent remarks by Mr. Day clearly illustrate that he feels <u>all</u> fisheries and game should be under the same organization.

2. Statement by Robert O. Beatty, Conservation Director, Izaak Walton League of America, Inc.

"I believe I should take just a moment, preceding my remarks on the vital question before us, to clarify for you just what the Izaak Walton League of America is. Although the name may connote otherwise, it is much more than a sport fisherman's club. The League is a broad-gauge organization of laymen, operating through 550 chapters and 19 state divisions in the United States and Alaska. The organization has as its principal objective the fostering of sound management, in the long-range public interest, of all renewable natural resources. Broadly speaking, the League concerns itself with promoting better management of, and disseminating to its membership and the public factual information about soil, forests, waters, fisheries and wildlife.

"The question before us today is broader and more basic than just that of whether the Hoover Commission recommendations on fisheries should be adopted. That something is wrong with the management of the nation's fishery resource, both sport and commercial, we all agree. The basic questions are: 'What can we do about it?' and 'What should we do about it?' By 'we' I mean a sizable segment of the American public made up of assorted interests in the whole resource, most of them legitimate interests and some of them certainly in conflict.

"The Hoover Commission, in its final reports to Congress on the Department of the Interior and the Department of Commerce, has proposed one solution. The Commission recommended that the commercial fishery activities and functions of the Fish and Wildlife Service, Department of Interior, be transferred to a Bureau of Commercial Fisheries in the Department of Commerce. Enabling legislation which would, among others, translate this recommendation into fact was introduced in the Senate on January 11, 1950, by Senator Cain of Washington. That's Senate bill 2833.

"As far as we can gather from the assorted Commission reports, the chief reason given for this suggested transfer is:

> 'A bureau of fisheries can be one of the most important industrial and commercial agencies in the government. It is related to industry, to commerce, and to the merchant marine at many points.'

"In our opinion the recommendation completely ignores three basic facts: (1) (and this is pointed out by a dissenting opinion of four of the 12 commissioners) that the chief problem is one of how to achieve better management, exploration and development of the fisheries as a natural resource, rather than how better to exploit the fishery commercially as a dollar resource; (2) that the dollar value of

the recreational fishery is exceedingly important and, in fact, closely approaches that of the commercial fishery; and (3) the commercial and sport fisheries are closely interdependent in the natural environment.

"I'd like to discuss my reasons for those two statements in a little more detail, but in so doing want to make it perfectly clear that it is not my hope, nor my intention in any way to widen further the breach in points of view between commercial and sport fishing interests.

"Such a breach apparently exists in some places in spite of honest and sincere efforts by many parties to close it. By the very nature of any natural resource, which is subject first to the laws of nature, and second to man-made laws, nothing will be gained by either group in the long run taking a 'stand-off-and-let's-fight-it-out' attitude. Much can be gained, however, if both parties will stand to one side together and try to look at the total fishery as a vital present and future natural resource. That is what I am trying to do here.

"We concur that the commercial fishery resource needs considerably more and careful attention and development, but it needs these things along two lines: (1) in the field of marketing and manufacture; and (2) in its management as a renewable natural resource. We know all too little about what makes for 'sustained-yield' populations of commercially-valuable fish species. There is only one example of a fishery resource that has been successfully studied and conserved over most of its range; that is the Pacific halibut administered by the International Fisheries Commission since 1930. This is the only fishery agency that has, to date, come even close to being adequately supported with money and personnel.

"Far too little is known of the life habits, cyclic influences and other factors affecting the abundance or scarcity of fishes, especially with regard to salt water species.

"There is ample testimony available to show that an important reason for the decline of many commercially valuable species has been over-exploitation over the years -- taking too many fish of too small a size the year around without regard to spawning seasons, migration habits, etc. Placing the management and administration of the commercial fishery back in the Department of Commerce, whose chief function is the development of industry for economic reasons, would, it seems to me, be inviting more of the same, and would be a dangerous and false solution to the problem.

"I do not think I am being idealistic about the practical economic problems facing the industry when I say that. I believe, in fact, that I am being quite hard-headed, for I am thinking about what the economic status of the fishery will be 10 or 20 years from now.

Nobody profits if there are no fish and we are rapidly approaching the 'no fish' stage, for practical purposes, with many commercially-valuable species in more than one area.

"The second basic fact which the Hoover Commission report on Interior ignores in its recommendation is the close interdependence between sport and commercial fisheries, plus the great economic value of the sport fishery itself.

"The same basic problems of lack of adequate research, personnel and management which plague the commercial fishery also plague the sport fishery. The latter is by no means picayune from an economic standpoint, yet under the Hoover Commission recommendations receives bare lip-service recognition.

"The other fact to remember has been well stated in the report of the Task Force on Natural Resources: 'Sport fishing is becoming increasingly dependent on commercial fishery resources'. But one example of this is the increasing numbers of fish species which are sought after by both the commercial and the recreational angler. Here are but a few: In fresh water -- the salmons, yellow perch, walleye or yellow pike, smelt, catfish and bullheads, sheepshead, paddlefish, buffalo, red horse, white bass, crappie, northern pike and pickerel, hickory shad; in salt water -- amberjack, tuna, barracuda, bluefish, bonito, cod, haddock, halibut, mackerel, sea trout, croaker, shad, porgy, sea bass, striped bass, and many others. The basic biological research and controls needed to better manage many of these species would be of lasting benefit to both commercial and sport fishing interests.

"But the Hoover Commission would separate the management of commercial and sport fisheries. Certainly the management of sport fisheries does not belong in the Department of Commerce. Even if we could honestly agree that commercial fisheries did, we would not support such a move on the basis of its demonstrated interdependence with the nation's sport fisheries.

"From the standpoint of the long-range good of the total fishery resource and its subsequent benefit to the people, the question of separating it from wildlife hinges, I think, on whether we would have a Fisheries Service and a Wildlife Service operating together in a Department of Natural Resources or whether we would have a Fisheries Service in Commerce or public works and a Wildlife Service in Interior or Agriculture or -- god knows! -- maybe the Army Engineer Corps!

"This much we do know today: The Department of Natural Resources idea, without the split, is before Congress. As an organization, the Izaak Walton League has gone on record in favor of such a Department. It has not yet been demonstrated conclusively to us that a split between

fishery and wildlife functions is either necessary or desirable. On the other hand, the beginnings of a good argument for a split have been started and have demonstrated that the commercial fishing industry, as well as the sport fishing industry, is in crying need of better administration, financing and management. We would, however, support legislation for a Department of Natural Resources regardless of whether fisheries and wildlife were separated."

3. Statement by C. R. Gutermuth, Vice President, Wildlife Management Institute.

"The one inconsistency that stands out in a review of the Commission's recommendations is the one which would divide the Fish and Wildlife Service into two units, a Fisheries Service and a Wildlife Service. With this single exception, the Hoover Report recommends consolidation and closer coordination. Only in this instance does the Commission recommend the division of one small unit into smaller units. In my judgment, it would be a serious mistake to follow this suggestion. This would divide the present Fish and Wildlife Service, which is small now compared to many government bureaus, into still smaller units which might make it even more difficult to deal successfully with large issues. Furthermore, I can find no logic in the recommendation.

"In many states, the same agency is handling the administration of both resources. The basic biological problems are largely the same, differing only in details rather than fundamentals. The only argument advanced in favor of this recommendation is the understandable one of tradition. The Biological Survey and the Bureau of Fisheries were operated separately for many years and some of the present members of the Fish and Wildlife Service can remember this condition. Perhaps they hope to restore it.

"Prior to the consolidation, Dr. Gabrielson, who served as Director of the Service for many years, opposed the plan largely because he already had plenty of troubles in the administration of wildlife work. Gabrielson, who is president of the organization that I represent, now admits that most of his fears proved groundless and that from an administrative standpoint, there were good reasons for the merger. The obvious advantage to both groups has been that of presenting a united front. Both lines of work has secured increased appropriations. They have had additional money to more adequately perform their responsibilities, and more than they ever were able to secure alone.

"Consolidation gives those interested in outdoor recreation, both hunting and fishing, a single unit to deal with on their problems. There is an obvious advantage from this standpoint. Therefore, I believe that the recommendation calling for the division of the Fish and Wildlife Service into two units is unsound.

"The proposal to put the commercial fisheries division by itself in the Department of Commerce borders on the ridiculous. There can be no logical reason for it other than perhaps the desire of some commercial fishing interests to have a group which might be more sympathetic to their pleas.

"A few states have separate units for commercial and sport

fisheries, the latter usually combined with the fish and game agency. In the majority of such cases, however, the two fishery units have spent fully as much time trying to undermine each other as they have in conducting their work. The same thing could be expected if the commercial fishery groups succeeded in getting the commercial fishery activities in a unit by themselves. In fact, the basic reasoning behind the desire for separation is one of the strongest arguments for keeping the administration of the resource in one agency.

"It obviously would be foolish to divide administration and research work for one group of fish into two separate parts, depending upon whether the man who catches it is going to eat it himself or sell it for someone else to eat. Such a procedure would be comparable to breaking down the administration of agricultural production by establishing one branch to handle regulation, research, and so forth for the parts of crops consumed by farmers and another unit for those to be processed by you folks or sold in the market place. The fishery resource is a unit and should be administered as a unit. Establishing two competing administrative groups would be a long step backward and an invitation to duplication of effort and wasted funds, which the Hoover Commission was intended to correct. Such an idea deserves no support from those who really are interested in the wise, efficient, and economical management of a valuable resource.

"If the eventual reorganization follows the recommendations of the Hoover Commission Report, those interested in fish and wildlife will be confronted with a rather difficult dilemma. Fish and wildlife are affected by both land and water management. If the Commission Report is followed, water-development will be in one agency and land-management in another. In that case, the fish and wildlife unit, wherever it is placed, will be faced with the necessity of working across departmental lines to secure proper management.

"The minority report and the one by the Natural Resources task force recommended a Department of Natural Resources which could administer both the public lands and water resources. It is the only plan which would place to a considerable extent in one department the administration of both the public lands and the water resources, and that would afford an opportunity for closer cooperation. Even then, these agencies still would have to cross departmental lines to work with the others dealing directly with farmers and private landowners on crop and pasture land.

"In conclusion, it seems that the proposal for the establishment of a Department of Natural Resources comes nearer to meeting the requirements of a sound, nation-wide conservation program. We certainly should not separate the Fish and Wildlife Service."

4. Statement by Donald P. Loker, Director of Public Relations, French Sardine Company, and Chairman, Fishery Products Committee, National Canners Association.

"It (the commercial fishing industry) definitely favors the separation of fisheries from wildlife, whether fisheries be transferred to Commerce or whether a new Department of Natural Resources be created.

"May I explain:

"President Roosevelt's statement of the advantages to be gained by the consolidation are very compelling and if experience since 1940 had shown that advantages had resulted in respect to fisheries, our case would be very weak indeed! In actual practice, however, these advantages simply do not appear. The natural areas of operation seldom coincide. Consolidation cannot reduce duplication of work because there is very little duplication. It does not facilitate coordination of programs which by nature are separate. A wildlife biologist cannot be substituted for a fishery biologist and this has not been attempted. The administrative details of fishery programs are so different than those of wildlife programs that they cannot be handled except by men who have different background, training and experience.

"These are but a few examples of areas where because of the comparatively close relationship, it was expected the claimed benefits would materialize, but experience has proven it unnecessary to have fisheries work done by people with fisheries training and wildlife work handled by people with wildlife training. The lack of promised benefits from the consolidation has not been our only worry. One of our primary concerns has been that consolidation of fisheries activities with wildlife activities has resulted not in coordination but in subordination!

"Now may I call your attention to an important point that is frequently overlooked by our friends in the wildlife field as well as by a good many of our friends connected with recreational fishing interests. This is that the fisheries functions of the federal government and the interests of the commercial fishing industry are concerned almost entirely with high seas fishery resources, with the notable exception of the Great Lakes fresh water fisheries. Only to a minor degree, moreover, do the inland sport fisheries of the nation, the fisheries of our streams and lakes, come within the scope of the federal government. The federal government's activity in this field is limited to the operation of some hatcheries and to some minor biological studies, but nowhere does it have the authority to regulate the inland fisheries. In fact, except in the Territory of Alaska, and the sponge fishery of Florida, the federal government has no authority to initiate regulations for any fishery. Recreational fishing on the high seas by comparison with commercial fishing on the high seas is extremely minor. It must

be recognized, however, that many of the fishes in the commercial fisheries are important to the recreational fishermen and it is for this reason that the commercial fishing industry, while attempting in no way to speak for the sport fishermen of the country, feels that all fishery functions of the federal government should be together and that any attempt to separate them might prove unwise. Not only could it lead to conflicts between the two gropus when there is no real conflict or major interest, but in all probability it could result in a loss of efficiency and too much duplication of effort. The area wherein the interests of both groups coincide far exceeds the area wherein their interests differ.

"Besides conservation, both sport and commercial groups have another point in common which should weld us together. The non-commercial fishing groups emphasize the recreational feature of the nation's fisheries, but they would be the last to claim that there is no commercial importance attached to recreational fishing. Indeed, they hasten to point out the tremendous value to the nation's economy of the sale of tackle, boats, bait, and also the vast revenue derived by the states from the sale of fishing licenses. It would seem, therefore, that the recreational fishing interests would, of necessity, derive definite benefits from being included within a department whose primary interest is the welfare of the business economy of this country. And to us it seems quite obvious that this reasoning points to the Department of Commerce.

"We must have a fisheries service that has a sympathetic interest in fisheries, staffed by men who have the imagination and vision required to plan fisheries programs of their own and coordinate those programs with the programs of the sovereign states, the commercial industry, the sportsmen's associations, and the trade associations."

NORTH AMERICAN FISH POLICY
Adopted by the American Fisheries Society, 1954

To strengthen the purposes and to achieve the objectives of the American Fisheries Society, the following policy is adopted:

I. STATE, NATIONAL, AND INTERNATIONAL RELATIONS. The individual States should be responsible for the administration and management of the fisheries within their respective boundaries and should perform, by agreements, these functions for interstate fisheries.

The Federal Governments, in addition to fulfilling their responsibilities for the administration of laws pertaining to national, territorial, and international fisheries, should collect and disseminate information on fisheries and should serve in an advisory capacity to the States and Provinces on fishery problems.

Where two or more nations share a fishery, rational management should be secured by means of a multilateral approach and international agreement. In promulgating these treaties the signatory nations should take into account the research and conservation measures undertaken by the component States and Provinces.

II. ADMINISTRATION OF FISHERIES. Fisheries should be administered on a nonpolitical basis and by individuals trained and experienced in the scientific management of fisheries. Biological facts should receive primary consideration in the utilizatization of fish stocks. The agency charged with the administration of the fisheries should be responsible for establishing needed regulations.

Public access to sport fisheries is of paramount importance. Present public ownership of water frontage should be jealously guarded and should be expanded at every opportunity.

Conflicts between sport and commercial fisheries should be settled on the pertinent facts in each case. In many instances waters will support both types of fisheries with mutual benefit. Where actual competition exists to the proven detriment of either fishery, an objective economic appraisal should form the basis for the determination of proper regulations.

III. RESEARCH. The success of any fish-management policy, in private or in public waters, is in proportion to its basis on factual information. This is a clear demonstration of the prior requirement for research in all phases of fish management.

The necessary research, conducted by trained personnel, must range from detailed physiological studies on individual fishes to broad-scale studies of the relationships of populations and environmental conditions.

Constructive programs of research should be developed by universities and by administrative units--State, Provincial, or Federal--to make the most advantageous use of available facilities and personnel. The comprehensive programs made possible through such coordination of resources should encompass the necessary fundamental research in all related fields and the practical problems arising from the application of research finding.

IV. MANAGEMENT. Regulatory laws, stocking, and habitat improvement are the presently recognized tools for management of most sport and commercial fisheries.

Laws for regulation of the catch should be based upon proved need, limited to those necessary for orderly management of fish stocks, and stated as simply as possible. The harvestable surplus of fish should be removed at the most desirable size and in the best condition for sport and food.

Food, game, and forage fishes reared at public expense should be stocked only for public benefit; private fish culture should be encouraged to supply privately owned waters. Only fish free of objectionable diseases and parasites should be used for stocking. Periodic replanting is desirable of lakes that winterkill infrequently or of waters which are occasionally depleted by pollution; otherwise the stocking of the young of any species in waters having adequate spawning conditions is considered of doubtful value. The introduction of exotic species is proper where adequate biological investigation has demonstrated the need and the suitability of the environment including the possible effects on contiguous waters.

Planting catchable fish in waters where reproduction is lacking and where environmental deficiencies cannot be remedied, is recommended if those who benefit pay the cost of such stocking. Elsewhere public agencies should limit the harvest to the extent that good sport will be maintained by natural spawning. In heavily used waters, fishing for game species must be regarded as a source of recreation, not meat. Private fish culture should be encouraged to provide fish for the table and for those who must have, and will pay for, a full creel.

Habitat improvement includes creation of new fishing waters, control of pollution including soil erosion, and provision of additional shelter, food, and spawning facilities for fish. Such

work should be preceded by a physical and biological survey to determine the factors limiting fish production and the remedies to be applied. The watershed approach is recognized as logical and most efficient.

V. MULTIPLE USE OF WATERS. Fishery resources are too important to be disregarded in any water-development project. Throughout most of North America the scarcity of water precludes any single-purpose development. Any plan to use water for power, irrigation, navigation, mining or to carry waste products should include maintenance of the fisheries as a co-equal objective and become part of the project cost.

Wherever an agency plans any development that will impair either the quantity or the quality of water available for fish life, mitigation of fish losses should be the financial responsibility of the sponsoring agency. Local projects are State or Provincial responsibilities. Interstate problems should be solved by interstate compacts.

The Federal agencies concerned with fisheries and public health should be responsible for conducting research in cooperation with the States and Provinces on the effects of pollution and other water uses and on methods for preventing loss of fish. State and Provincial agencies should conduct research on purely local problems.

VI. ADOPTION OF UNIFORM COMMON AND SCIENTIFIC NAMES OF FISHES. The standing committee of the Society should accelerate its efforts to have the most appropriate common names accepted by fishery administrators and the general public.

VII. EDUCATION AND PUBLICITY. Progress in management of fisheries is dependent upon public understanding and acceptance of current and proposed programs. Every available means should be employed to disseminate factual information in a form that will be readily understood and accepted.

NORTH AMERICAN FISH POLICY COMMITTEE

Richard S. Croker
John F. DeQuine
W. J. K. Harkness
A. V. Tunison
Albert S. Hazzard, Chairman

Alaska Sportsmen's Council

Box 761 · Juneau, Alaska

Matanuska Valley Sportsmen's Association
Tanana Valley Sportsmen's Association
University of Alaska Wildlife Club
Stikine Sportsmen's Association
Territorial Sportsmen, Inc.
Alaska Range Association
Haines Rod & Gun Club
Anchorage Sportsmen
Alaska Bowmen
Outboard Club

October 24, 1955

Burke Riley
Box 133
Haines, Alaska

Dear Mr. Riley:

The organized sportsmen of Alaska, representing a membership of 2,000, vitally interested in good conservation administration urge you to study and adopt the enclosed Constitutional proposal.

This is copied from the Missouri state Constitution which is recognized throughout the nation as the best in existence. It was adopted by the voters of Missouri in 1937 and has resulted in an outstanding wildlife administration. Because of the extreme importance of these resources in Alaska, we believe it is imperative to safeguard its future in the Constitution. This would provide for a model law to be drawn up by the first Legislature and would keep the program free from constant changes or heckling from pressure groups.

We have adopted a unanimous stand against consolidation of commercial salmon fisheries and wildlife in one department. Washington state and British Columbia, the two principal salmon areas outside of Alaska, have found by experience that commercial fishery departments and wildlife cannot be handled together. They have entirely different objectives and philosophies. Game, fur, birds, and game fish belong together and must be handled on a non-commercial basis. Almost everyone in Alaska has a direct and personal interest in hunting, fishing, and recreational use of these resources. No pressure groups should attempt to dictate their administration.

It seems to us as if a similar provision should be made for a Department of Commercial Fisheries. In both cases the Commission should be a "Board of Directors" and the nature of these activities demands separate qualifications. We believe the commercial fishermen of Alaska will support our views. We have spent nearly two years studying various ways to provide good management of wildlife resources and we believe this proposal will best do the job.

Enclosure

Sincerely yours,

A W Boddy

A. W. "BUD" BODDY, President
Alaska Sportsmen's Council

MEMBER NATIONAL WILDLIFE FEDERATION

WILDLIFE MANAGEMENT INSTITUTE

Dedicated to Wildlife Restoration

WIRE BUILDING, WASHINGTON 5, D. C.

October 14, 1955

Mr. A. W. Boddy, President
Alaska Sportsmen's Council
Box 761
Juneau, Alaska

Dear Mr. Boddy:

Your letter of October 10 has just been received. In reply I will say that the Missouri amendment is the simplest amendment that I know of. It is very compact and throroughly covers the ground.

You may be interested to know that this was drawn up by some of the finest constitutional lawyers in the United States, and I doubt that I, or anyone else, can simplify it or shorten it very much without eliminating something essential. I have read it many times, and there does not seem to be a superfluous word in it.

My suggestion to you is that you do everything possible to get that included verbatim. It has the advantage of being tested in court on numerous occasions and has so far stood up against every assault that has been made on it. If you could get this wording in your constitution, I am sure you would be in a solid position legally and would have adequate coverage of your wildlife needs.

Kindest personal regards.

Sincerely,

(Sgd) Ira N. Gabrielson

Ira N. Gabrielson
President

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Proposal by Alaska Sportsmen's Council:

WILDLIFE CONSERVATION SECTION -- CONSTITUTION OF ALASKA

Section 1. The control, management, restoration, conservation and regulation of the bird, game fish, game, fur and all wildlife resources of the state, including hatcheries, sanctuaries, refuges, reservations and all other property owned, acquired or used for such purposes and the acquisition and establishment thereof, and the administration or all laws pertaining thereto, shall be vested in a wildlife commission consisting of four members appointed by the governor, not more than two of whom shall be of the same political party. The members shall have knowledge of and interest in wildlife conservation. The members shall hold office for terms of six years beginning on the first day of July of consecutive odd years. Two of the terms shall be concurrent, one shall begin two years before and one two years after the concurrent terms. If the governor fails to fill a vacancy within thirty days, the remaining members shall fill the vacancy for the unexpired term. The members shall receive no salary or other compensation for their services as members, but shall receive their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties.

Section 2. The commission may acquire by purchase, gift, eminent domain, or otherwise, all property necessary, useful or convenient for its purposes.

Section 3. The commission shall appoint a director of conservation who, with its approval, shall appoint the assistants and other employees deemed necessary by the commission. The commission shall fix the qualifications and salaries of the director and all appointees and employees, and none of its members shall be an appointee or employee.

Section 4. The fees, moneys, or funds arising from the operation and transactions of the commission and from the application and the administration of the laws and regulations pertaining to the bird, game fish, game, and wildlife resources of the state and from the sale of property used for said purposes, shall be expended and used by the commission for the control, management, restoration, conservation and regulation of the bird, game fish, game, fur, and wildlife resources of the state, including the purchase or other acquisition of property for said purposes, and for the administration of the laws pertaining thereto, and for no other purpose.

Section 5. Sections 1 to 4, inclusive, of this article shall be self enforcing, and laws not inconsistent therewith may be enacted in aid thereof. All existing laws inconsistent with this article shall no longer remain in force or effect.

Section 6. The rules and regulations of the commission not relating to its organization and internal management shall become effective not less than ten days after being filed with the secretary of state, and such final rules and regulations affecting private rights as are judicial or quasi-judicial in nature shall be subject to judicial review.

Section 7. The commission shall supply to all persons on request, printed copies of its rules and regulations not relating to organization or internal management.

CONSERVATION SECTIONS -- CONSTITUTION OF MISSOURI
(Article IV -- Executive Department)
Adopted February 27, 1945

Section 40. The control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including hatcheries, sanctuaries, refuges, reservations and all other property owned, acquired or used for such purposes and the acquisition and establishment thereof, and the administration or all laws pertaining thereto, shall be vested in a conservation commission consisting of four members appointed by the governor, not more than two of whom shall be of the same political party. The members shall have knowledge of and interest in wildlife conservation. The members shall hold office for terms of six years beginning on the first day of July of consecutive odd years. Two of the terms shall be concurrent, one shall begin two years before and one two years after the concurrent terms. If the governor fails to fill a vacancy within thirty days, the remaining members shall fill the vacancy for the unexpired term. The members shall receive no salary or other compensation for their services as members, but shall receive their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties.

The members of the present conservation commission shall serve out the terms for which they were appointed, with all their powers and duties.

Section 41. The commission may acquire by purchase, gift, eminent domain, or otherwise, all property necessary, useful or convenient for its purposes, and shall exercise the right of eminent domain as provided by law for the highway commission.

Section 42. The commission shall appoint a director of conservation who, with its approval, shall appoint the assistants and other employees deemed necessary by the commission. The commission shall fix the qualifications and salaries of the director and all appointees and employees, and none of its members shall be an appointee or employee.

Section 43. The fees, moneys, or funds arising from the operation and transactions of the commission and from the application and the administration of the laws and regulations pertaining to the bird, fish, game, forestry and wildlife resources of the state and from the sale of property used for said purposes, shall be expended and used by the commission for the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and wildlife resources of the state, including the purchase or other acquisition of property for said purposes, and for the administration of the laws pertaining thereto, and for no other purpose.

Section 44. Sections 40-43, inclusive, of this article shall be self enforcing, and laws not inconsistent therewith may be enacted in aid thereof. All existing laws inconsistent with this article shall no longer remain in force or effect.

Section 45. The rules and regulations of the commission not relating to its organization and internal management shall become effective not less than ten days after being filed with the secretary of state as provided in section 16 of this article, and such final rules and regulations affecting private rights as are judicial or quasi-judicial in nature shall be subject to the judicial review provided in section 22 of article V.

Section 46. The commission shall supply to all persons on request, printed copies of its rules and regulations not relating to organization or internal management.

Hearings and Statements
on Resources

Hearings and Supplements

Open Hearing

COMMITTEE ON RESOURCES

3 p.m., Saturday, December 3, 1955

ALASKA CONSTITUTIONAL CONVENTION

CHAIRMAN W. O. SMITH: The Committee on Resources will come to order and the purpose of the meeting is to give any member of the public who desires an opportunity to be heard on any phase of resources or resources problems.

First, I would like to ask those who propose to either present statements, written or oral, to the committee to raise their hands. The reason for this is the time element. Thank you.

I had thought that if there would be a great many people today to present their views that I would suggest to the Delegates present that those who had come here to present their views be given all the time possible. It looks like we might have ample time, so I think that probably we should give those who are here who wish to be heard, other than Delegates, an opportunity to present their views first, and I would like to ask of those who have statements to present that you identify yourself, state whether you are here in an individual or representative capacity, and if you have a prepared statement I would ask that at any time you depart from your prepared statement that you notify the stenotypist.

On behalf of the Committee I want to welcome those who have statements to present and to say that we want you to feel that you are here to help us solve a common problem. Mrs. Ryan, would you care to present your statement at this time?

(Mrs. Ryan came to the front of the room at this time.)

MRS. RYAN: I am Irene E. Ryan, engineer from Anchorage, Alaska, and a member of the House of Representatives.

I am particularly interested in seeing that there are no restrictions placed into the Constitution as regards acreage limitations as regards leasing rights which could become unrealistic very rapidly as the picture in Alaska changes. This is particularly in connection with oil and gas. At the present time this is in the competitive stage because there have been no discoveries made. Once discovery is made in a particular area and the producing areas become better known, the value of acreage not only increases but the size of a particular lease, a great size is not of such importance as a small size in the right place. Therefore, to attempt to put in any acreage limitations in the Constitution itself could work very much against the Territory and people's interests in those resources. The authority to set limitations, the authority to set up the rules and regulations and leasing provisions should all be clearly given in the legislature to make those laws. The broad statement I think, or rather the Constitution, should in some statement specify that the resources of the lands that are granted to the state or that the state will own are recognized as being the property of or in the people, so that the legislature's responsibility will be at all times to protect the interests of the people. But to attempt to set in the Constitution itself the laws or rules and regulations by which that interest is protected would be extremely difficult to my mind, with the Territory's condition changing and continuing to change so rapidly in the next ten years. I am particularly cognizant of the fact that at the time the aluminum corporation thought it could go into Skagway, the Federal Land Office could not grant them the land they needed for that industrial city and plant they were going to build there under the

existing federal land laws. It was going to take an act of Congress to get that land for that plant, and any acreage limitations set into the Constitution might very well tie the hands of the Territory to whether it could not take care of the problem realistically.

Are there any questions at all as regarding the problem in general on leasing that any of the Committee members would like to ask me?

CHAIRMAN SMITH: Mrs. Ryan, I am only sorry that we are not far enough along to give you a look at a preliminary draft of an article covering resources. But time has not been such that we have completed it to the place where we could present it to you as a whole. The procedure which we have followed is to allow each member of the Committee an opportunity to ask questions, and if that questioning can be followed further by any member of the Committee then we have followed that procedure.

DELEGATE BOSWELL: Concerning the present public domain lines of certain rules and regulations, do you see that there will be any advantage if we would tie our leasing of gas and oil lands to the federal type of leasing as to acreage or royalties?

MRS. RYAN: At the present time the federal laws as to acreage limitations and rentals and royalties is sufficiently generous that the oil companies are coming in. However, if you tied now to federal land laws there could be a time when the situation in the Territory would change so definently that the federal laws or laws you would have written into the Constitution would no longer apply to the benefit of the Territory. A generous law to induce the industry to come in is very good, but once the industries are established and it becomes highly competitive among the industries themselves, then you are giving too much away which should bring

the Territory more revenue than it would under the existing laws. In other words, when you get out of the non-competitive into the competitive type of oil leasing--ten years ago people would have said it would have been ridiculous to ever presume that major oil companies would bid bonuses in addition to all royalities and rentals. There have been over ten million dollars bid in Texas and Louisiana, and the bonuses are in addition to the regular rental and royalties they will have to pay for the operation of these leases, and that is under conditions where the oil companies will be spending a considerable greater expenditure than they are in Alaska today, in a new country, because they know fairly sure that not only is the oil there but there in tremendous quantities. Now, if that same situation were to develop in Alaska with the company, then the Territory should get the most that it can from a condition that is competitive between companies themselves, because whatever they get from it is for the good of the entire people and helps in the tax burden for improvements, and roads and schools, etc., that will be required once the industries are here.

DELEGATE BOSWELL: The present federal law does not establish this competitive bidding?

MRS. RYAN: Yes, it does under certain conditions when the discovery has been made. However, leases that are taken today and held will not be declared competitive tomorrow so long as the original lease is still in exploratory stage of development, though once it goes out or was open public domain then the new leases would have to be competitive. Where you have millions and millions of acres, five million acres I think are under lease in Alaska now.. Now, a major discovery on any of that acreage does not throw the leased acreage back into the competitive position.

DELEGATE WHITE: Mrs. Ryan, do you feel in pursuit of that general subject, that it would be advisable or desirable to write into the Constitution a state law applying unto the lease of oil and gas lands that should be no less liberal than those applying in the federal domain?

MRS. RYAN: Then again you might be tying the hands of the legislators to the point where it might accrue to the benefit of the Territory to be more liberal than the federal government in a specific instance of time. I am not thinking of a particular instance in regard to acreage but time.

DELEGATE WHITE: I was suggesting putting it the other way--that they should be no less liberal than the laws applying in the federal domain.

MRS. RYAN: Very definitely where the federal laws could be too liberal, where the Territory would be losing. There is a time when the federal condition could be not liberal enough to induce industry to come in, as was the case before they changed it to one hundred thousand acres, and there could be a condition developed in which the federal laws are much too liberal for meeting the actual need.

DELEGATE STEWART: In other words, Mrs. Ryan, you think it should be made adjustable in the judgment of those who control?

MRS. RYAN: That is right.

MEMBER OF THE COMMITTEE: I would like to ask once more. You feel that regardless of what the restrictions or limitations on the federal land laws would be, that we should not stipulate at any time, that there should be no more restrictions as to acreage or higher taxes anywhere in the state than federal? In other words, you want, regardless of how the federal land laws change, the legislature should have full control?

MRS. RYAN: The legislature should have the authority to pass the laws and programs that will fit the need of the time.

DELEGATE WIEN: You are familiar with the restrictions in the present Enabling Act? Do you feel that possibly we should provide for disposal of minerals other than leasing if the congress should so allow?

MRS RYAN: I definently do. In the world of mining or minerals, as classified, the metals stand alone in their manner and method of occurrence, and in the mining fraternity among the prospectors and the people who do the exploration for the work, the feeling of finders keepers is one that has been long established and accepted. That ability to go in and stake a claim and to prove it up and to eventually patent it when you have brought it to development, is the type of incentive that keeps prospectors in the field, and I would definently like to see if it would be possible that could be continued in regard to metals. That type of exploration, of course, does not apply to coal or gravel or sulphur, oil and gas.

DELEGATE KING: Mrs. Ryan, do you think a simple statement something like this would cover it? (Mr. King read a statement at this time.)

MRS. RYAN: Yes, but I wonder --I would like to see the responsibility clause to protect the people in this sufficiently strong so that you can close the door against fraud and speculation--the holding in other words. The legislature could possibly, if it were defective, pass a law which would permit speculation by acquisition of large blocks for holding purposes, as it has in past history many times.

DELEGATE KING? Do you mean as part of the Constitution or the

legislature?

MRS. RYAN: As part of the Constitution. I would like to see a clause in there that when the legislature does defect that the courts be able to use that clause in the Constitution to upset a grab, although I have a great deal of confidence in the people of Alaska setting legislature down that would not be inclined to give the resources away. I imagine they would be inclined to lean the other way after the experience in the past.

DELEGATE STEWART: Mrs. Ryan, you are familiar with the terms of the present Enabling Act and realize that unless, at least those who proposed the bill, Senator Murray of Montana and 25 other Senators presented this for approval. Then it provides...

(Mr. Stewart read statement at this time.)

MRS. RYAN: I think that is very interesting from this standpoint: they are open for entry under the same method that we would like to see the state make them open for the case of metals--not oil and gas. Those should not be patented.

DELEGATE STEWART: Do you not think a leasing arrangement could be so provided and administered that it could be just as liberal as the present method?

MRS. RYAN: I would not doubt that it could be.

DELEGATE STEWART: I think that is probably what they had in mind. Yet it would bring about a situation where the right that was given would be to ..... realizing all the returns that could be made from them, and yet the control, the title to those mines would be still in the state, so that if one organization undertook to develop a mineral deposit and found they could no longer carry on and wanted to give it up, would it not be better to have it go back to the state to be leased for somebody else, having given them

the full chance to do everything necessary?

MRS. RYAN: It probably would, Mr. Stewart. I don't know whether or not the same effect could be secured when mining properties are abandoned by one firm that have a pact, and they stand idle and no one else can use them, if that could not be reached through assessment and taxation.

DELEGATE STEWART: Do you think that taxation is a better means of regulating than a leasing system might be.

MRS. RYAN: I don't know. The reason why my statement was regarding mining metals to be able to enter a claim and patent it is the feeling of the average guy who is going out and makes a discovery; he wants to be able to say "this is mine," and it does not always have its roots in real logic. It could be just as much as if he has a lease from the state; that is true, but to get that message over to the fellow who is going out--

DELEGATE STEWART: In other words, it is more or less a sentimental feeling? Could that be overcome by a little education?

MRS. RYAN: It might be. The very fact that it might happen is causing a great deal of uproar and resistance from the mining people, the prospectors.

DELEGATE STEWART: I would like to call Mrs. Ryan's attention to the fact that we are faced here with a situation where the Congress has laid down certain very definent provisions. Now if we even appear to be going contrary to them without some very good reason, it is going to jeopardize our whole setup.

MRS. RYAN: This Enabling Act that is now under consideration in Congress, is there any chance that might not be amended? In other words, I wonder if it is contrary to federal practice; I wonder if in drafting that particular part of the act, it was not in the minds of the Senators to protect the oil and gas lands from patents

when they use the word "minerals." It seems peculiar to me.

DELEGATE STEWART: Senator Murray was from a mining state, Montana, and I think he knew what was going in it. It is a question in my mind whether it is advisable to attempt to write into our Constitution anything that seems to go contrary to the thinking of the Senators as exhibited in this Enabling Act.

MRS. RYAN: I wonder if that could not be accomplished by leaving it up to the legislature, giving them the authority to enact the laws for the leasing, sale, disposal, patent, etc, subject to any restrictions applied by enabling legislation from Congress. Then if it is removed, fine. At some future time the legislature would have the authority then to be able to permit sale outright of lands and resources.

MR. WHITE: Mrs. Ryan, you said that this provision is resulting in an uproar now among the mining people. I wonder if of your knowledge you know whether or not this section was written in the statehood enabling act: "Such representation was made to Congress on behalf of Alaskans..."

MRS. RYAN: I doubt it very much. It probably was read without digesting the import of it at the time.

DELEGATE BOSWELL: You mentioned the importance of getting patents to this land eventually. We discussed it a little bit yesterday--the possibility that a person might go out and stake a claim and have the right to mine that land but that he could not get patent to it. In other words, we would not be alienating minerals from the land under that sort of an arrangement, and still, if at any time that person did not fulfill the requirements of holding that claim, it would be worked through the state. It would seem that would take care of at least one of these problems. Do you think

that would take away the prospector's incentive to go out on state lands and look for minerals?

MRS. RYAN: I don't know for sure. When you asked that question the first thought that occurred to me was the effect it would have in the event of the major discovery that required financing in the prospector or owner purchaser of that right to mine, being able to secure long-term financing unless the operating provisions of his entry were such that he could be assured of holding it for the length of the financing;where a patent is like a deed you can secure financing, whereas, if you have a lease certain types of improvements and financing is impossible.

DELEGATE BOSWELL: What I am visualizing is a person who would stake a claim or a group of claims. He would have to do his assessment work or perhaps pay rental each year, and as long as he did that he would have the right to develop that property, but at any time he failed to do that, wanted to give up the property, then it would go back to the state. It would seem to me that would not be too serious a deterrent to prospecting.

MRS. RYAN: Not to the prospecting. Not being able, as I say, under conditions like that in the event he did make a discovery and reached the point where he had to build a railroad, mineral plant, etc., how about his finances?

DELEGATE BOSWELL: It seems to me his rights would be just as sound as they are today on the public domain. That is, you would have just as much confidence and right to continue.

MRS. RYAN: Of course, the legislature could assure that in the actual laws that are written to follow it.

DELEGATE KING: In Arkansas and California they have what is called

a deferrential lease. That gives the right of first chance. That would probably be an added incentive.

DELEGATE RILEY: Mrs. Ryan, it was your suggestion was it not at the outset in recommending no restrictions constitutionally on acreage, that be in general not confined to any one type or segment of the industry? That applied also, did it not, to sale as well as lease? You sought to have no restrictions on either sale or lease?

MRS. RYAN: Not as regarding one specific resource. I don't think oil and gas or coal deposits--some deposits or resources should never be sold. They are of the nature that they always be leased.

DELEGATE RILEY: You were speaking in terms of restrictions on acreage; but then in your reference to the Skagway area you had in mind unrestricted acreage as being available for sale as well?

MRS. RYAN: For sale as well; that is what surface right is desired.

DELEGATE RILEY: On another subject, you are familiar I expect with the provision in the Enabling Act whereby existing leases covering oil, coal and gas would be in effect transferred to the state from the United States; that is, the state would take over. Do you see any reason for any reaction, should I say, on the part of the industry to that proposal?

MRS. RYAN: So long as the Constitution has not written into it laws which are more restrictive than the federal government's, no.

DELEGATE RILEY: If existing leases by their original terms would remain in force in every respect except to lessor, and in that manner give immediate income, assuming that many of those leases were covering producing operations; you know of no reason why there should be objection to that provision of the Enabling Act, do you?

MRS. RYAN: No.

CHAIRMAN SMITH: I just have one question, Mrs. Ryan. When you say that the leasing of land as outlined here is contrary to federal practice, you are speaking strictly of public domain? I know that in all the states there is this same provision in regard to school lands which were granted to the state.

MRS. RYAN: That is true where you have the two sections, or in some states four, but the position in Alaska is going to be a little bit different because we are going to get an outright grant and the right to select the lands if they have not had previous entry on them, so that it is not going to be as it was in the case of the states where the school sections were supposed to be non-mineral to begin with, and when that mineral did happen to be found once the title had passed, then definitely the state was recognized to do what it wanted with it. But here where we are going to possibly be taking quite a chunk of what is public domain, it is a little bit different.

CHAIRMAN SMITH: I am sure again that a person as well informed as you realizes that the grant of land to the State of Alaska is made in an entirely new manner--a new concept of land grants, and there is actually no land set aside for school purposes other than the small grants to the University. There is no land set aside for the support of public schools, and this one hundred million acre grant is a general grant which includes lands for the support of public schools, and apparently a good many of the Congressmen simply carried over their concept of school land grants in connection with this hundred million acre grant. There is one other comment I would like to make. I know that several members of the Committee, as well as I, have had letters, telephone calls from various people saying that "we understand you fellows have dreamed up a leasing system for mineral rights." That is just a little amazing

and it is hard to understand, although in a way you can through the fact that the mining industry, that has most at stake, apparently did not understand the implications or did not grasp the fact that it was going to affect them vitally. I simply wanted to say that so that people would know that we are not "dreaming" up things here but facing what we have to work with.

DELEGATE RILEY: The other day a proposal was made in a committee by a mining man that perhaps there was an area of agreement within this hundred million acre concept that because a mining industry everywhere had since 1927 been accustomed to mineral rights in the states reserved on school sections, perhaps a fractional part of the hundred million acres to correspond with the old school entitlement might be made subject to the mineral reservation in this phase. How would you feel about that?

MRS. RYAN: I am not sure I understand the implications of your sentence. In other words would the state reserve to itself in behalf of this land the mineral rights at the time it...

DELEGATE RILEY: The United States would reserve, if this thinking were adopted, to the state the mineral rights in the land grant, whatever the fractional part might be.

MRS. RYAN: Would grant it to the state?

DELEGATE RILEY: Understand that under the Enabling Act when the hundred million grant is made that there is no restriction, that we will be permitted to select mineral lands if we so desire. Perhaps you don't follow me. Take the present Enabling Act or bill. We contemplate one hundred and three million acres with mineral rights reserved to the state. The land may be sold; the surface may be sold but the mineral rights always retained in the state. This fellow's proposal was that before that concept we always thought

in terms of the school grants and other internal improvement grants of land. Prior to 1950 when this hundred million proposal was made with mineral rights in the state, state lands always derived from a school grant and from other internal improvement grants made to the state on admission. As far as the school lands were concerned, since 1927 the mining industry has been accustomed to leasing those lands from the state. They could not stake them. They hadto lease to operate. That concept is pretty well established in the Western states. So this witness suggested that because we have been accustomed to this type of operation on school lands, perhaps we can get together on an acceptable formula whereby the former acreage entitlement under the school grant could be retained. In other words, a fractional part of your hundred million acres would be subject to the same mineral reservations rather than the entire hundred million. The balance would be subject to enabling act provisions which are still conjectural.

MRS. RYAN: Might be. I don't know how they feel in these areas. You could probably get witnesses from here, but as far as the people in the Third Division are concerned, and this question is coming up and I am to take back a report to AIME, I will see what their feeling is going to be on it. They will probably come forward and at that time it will give them opportunity to give further testimony on it.

CHAIRMAN SMITH: Mrs. Ryan, I don't recall whether I asked whom you are representing.

MRS. RYAN: I am representing myself.

CHAIRMAN SMITH: I would suggest that we take a five-minute recess, but before we do I would say that I am reluctant to let a person of your ability go without further questioning. Would it be too much to ask that if any one of the Delegates have questions, you

might try to answer them. We will take a five-minute recess.

(Committee recessed for five minutes at this time.)

CHAIRMAN SMITH: It has been requested that the members of the Committee try to speak a little louder. People have had difficulty in hearing the questions. Is there anyone in the audience who would like to ask questions of Mrs. Ryan?

DELEGATE MARSTON: I would like to talk following up Mrs. Ryan's talk. I want to talk on oil.

CHAIRMAN SMITH: You will have an opportunity to present a statement, Mr. Marston. However, does anyone have a question to ask of Mrs. Ryan? Mrs. Ryan, you got off easy, I am sorry to say, because I enjoyed your presentation very much, and I am sure it was of value to the Committee. I hope you

DELEGATE MARSTON: I hope you understood that Mrs. Ryan is a graduate geologist and that she spoke from authority. I was a wildcat oil driller for ten years and a leaseman of Shell Oil Company for two years, and I feel we should be very liberal, more so than the States, with the oil wells. It costs about three times as much to punch down a well here as it does in the outside. The by-product is bigger than the oil. I can see a hundred thousand population coming to Alaska if this oil is what we anticipate and hope it will be. The hotels, the restaurants, everything grows, and the by-product is greater than the original product. Right now we are fouled up with the Tide Lands. I have a little play with the Shell Oil Company in Wide Bay, and they would start drilling, but they can't do it. The Tide Lands are fouled up and the federal government did not elect to have the future state of Alaska have tide land rights like the other states. We got off low man on the totem pole again. We are fouled up now on the tide lands. That is likely to hold us back for awhile. I feel

with Mrs. Ryan that we should leave any legislation on oil go through our legislature, and I feel the legislature should not touch up the oil business either and leave it to the industry. The federal government is now taxing them 12½ per cent. They have delayed on that tax for ten years. Now one-eighth royalty is the regular standard fee that the ground owners collect in the states. I have signed up tens of thousands of acres, and they get one-eighty of the royalty, and that is what is being taxed against the industry now. So the only suggestion I have, Mr. Chairman, is that we do not involve this in the Constitutional amendment so it cannnot be worked freely, because there are many variations. The legislature can do it, and I trust they do not stop this great development we have coming. That is all I have to say.

DELEGATE SMITH: Thank you.

DELEGATE WHITE: A technical point, Colonel Marston, you did not mean to infer that the state of Alaska will not get tide lands when it gets statehood. I believe it is automatic that every state shall get title to its tidelands.

CHAIRMAN SMITH: I have made a note to mention that when Alaska becomes a state it will take title to tidelands out through the three-mile limit. The fact that we are fouled up with our tidelands will no longer apply, I hope. Does anyone in the audience have a question to ask Colonel Marston.

MRS. MARSTON: Is Bristol Bay included in the tidelands?

CHAIRMAN SMITH: That would take a greater knowledge of the legal questions involved than I have. I can only give you an opinion, and that opinion would be that the tidelands in Bristol Bay would go through the state.

DELEGATE BOSWELL: Tidelands or submerged lands?

CHAIRMAN SMITH: I believe it would apply to both instances.

MRS. MARSTON: As I understand it, the federal government has ruled that the distance between the headlands of two places determines whether the intervening lands, tidelands, are to come under this Act. Consequently, I think there is some question as to whether or not Bristol Bay is to be under the Tidelands Act.

CHAIRMAN SMITH: We all know there are certain instances where the United States has used that rule. There are other instances where they have not, so it is a completely involved and legal question. I think we should leave it to the experts. Does anyone else have a question to ask of Colonel Marston? If not, would you care to come forward and give your statement...

(At this time Mr. Ernest Wolf read his prepared statement.)

CHAIRMAN SMITH: Do you have any comment to add that you had overlooked, or any further statement to make?

MR. WOLF: No, I did not have, until I heard Mr. Ryan make the statement, and I wondered what did the Senators have in mind when they said "you, as a state, shall not be allowed to let your prospectors who own mineral rights..... and yet if you do let them we will take it back and do that very thing."

CHAIRMAN SMITH: The only thing I can say there is that I am sorry we do not have the record of all hearings leading up to this time, but possibly we will have them by day after tomorrow. Maybe we can then find out what the Congressmen thought.

MR. WOLF: I did not come here to try to make recommendations. I don't know what is the best way to work. Those are my views. I thought you would be interested in hearing what a part-time prospector would have to say--a full-time prospector can't make a living at it.

DELEGATE WHITE: I thought it was an excellent statement.

DELEGATE KING: That was the first time we had the prospector's

viewpoint on the situation. We appreciate it.

DELEGATE STEWART: A very well prepared paper.

DELEGATE RILEY: I have nothing to say beyond adding my appreciation to the other for your statement.

CHAIRMAN SMITH: I note one reference to the fact that it is no easy matter to patent. Would it not be possible for the legislature to make it easier to lease land, at least as easy as it is to stake land, and could not the legislature, if it so desired, give the claimant as much right as he has at present staking the claims?

MR. WOLF: Well, I thought about that, and I think, as I have stated, I can actually believe we would end up trying to make it easier and easier for the prospector to give subsidy rewards and special consideration. Those are my beliefs. Now, the legislature can do anything within its power, that is true.

CHAIRMAN SMITH: I notice another reference to I think you said "claims not worked could be relocated as soon as opened," which is absolutely true, but how about the land which goes to patent where the mining operator obtains key title to the lands. After the miner is through with that land he still owns that land. The chances are that it will be held without further use. The thought I am getting at is that if that land were under lease, it would immediately revert to the state and could be put to use again.

MR. WOLF: I think taxation could bring it back into the state fold very easily. In fact, it is doing that, along with our land tax in effect for four years.

DELEGATE STEWART: Have you ever attended a session of the legislature?

MR. WOLF: No. I have observed them through newspapers.

DELEGATE STEWART: They have not been very successful, have they?

MR. WOLF: Well, it is our legislature.

DELEGATE STEWART: Do you know why they have not been successful?

MR. WOLF: No, I don't. I believe it is because the mining industry or the majority of the members of the legislature have been against the proposal.

DELEGATE STEWART: At least the most powerful ones. I guess I had better not go into the subject.

DELEGATE WHITE: I would like to ask a question. If it is presumed to be possible to prevent desirable legislation in the matter of taxes, it would then also be possible to make possible abuses of any leasing provisions, would it not?

MR. WOLF: I am not sure I understand the question.

DELEGATE WHITE: If you can get poor legislation out of one legislation on one subject, presumably you could get poor legislation out of another, could you not?

MR. WOLF: Yes.

DELEGATE RILEY: Mr. Wolf, have you ever taken a claim to patent?

MR. WOLF: I hope to someday.

CHAIRMAN SMITH: Does anyone in the audience have a question to ask of Mr. Wolf? If not, we are very appreciative of your coming here and giving us your viewpoint, Mr. Wolf, and I am sure, I believe you are the first prospector who has appeared before the Committee, and it has been of great interest to get your views.

DELEGATE MARSTON: I am a member of the Prospectors' Society of Ft. Richardson and Elmendorf Air Force Base. They have a very live prospectors' society there. Those thirty or forty members and some private prospectors out of Anchorage asked me to speak to this Convention to see if we could not do something for these would-be prospectors along the line that Canada has done for its prospectors to give them exemptions for their production. I know

two fliers from Barrow who left two years ago; because they had three years of exemption on taxation on all the gold produced they went to Canada. Their new procedure on grubstaking prospectors has brought them to the front. Their money is worth more than ours. They did it through their natural resources and they had a much better attitude toward their prospectors and oil men than we have shown in Alaska. This miners' society asked me to speak to this organization to see if something could not be done to open up so they could go into fields and get some support, a grubstake of some kind.

CHAIRMAN SMITH: Did the association suggest that we write a tax exemption provision into the Constitution?

DELEGATE MARSTON: They made no exacting provision--just similar to the laws of Canada to get better action.

DELEGATE STEWART: I was a commissioner of mines there in British Columbia for thirty years, and over the years you will find from my reports, one session of the legislature after the other we endeavored to get through laws enabling us to do just what these prospectors suggested we do. We had no success because of the lobbying, and at the same time those that were opposing it were doing nothing themselves, although they were taking out plenty of our mineral resources at the time.

CHAIRMAN SMITH: Does anyone else have a statement to make or comments or questions to ask?

DELEGATE NORDALE: It is true, is it not, that when you stake a claim you have to put in $150 a year in order to hold temporary title to it?

DELEGATE BOSWELL: It is $100. You have to do $100 worth of work.

DELEGATE NORDALE: Well, there seems to be objection; at least that is my impression about the leasing. Is it not possible that the state could lease mining property for even less than $100 if it wanted to and these people could have the same opportunity to develop it? And then when all the gold is gone and nothing but a bunch of taling shaving piles remain, the state could have it; then maybe in a hundred years when the gravel disintegrates something would grow. Whereas, if it is patented it just lies there forever.

DELEGATE BOSWELL: That was the point we were making here awhile ago--that people could still stake a claim and as long as the state does not patent thatground that is exactly what would happen.

DELEGATE NORDALE: I can't see the real objection to not being able to patent it if the leasing fee were quite a reasonable one.

DELEGATE BOSWELL: I think one of the problems not mentioned here is this present situation where a lot of ground is owned by patent and by staking and we are superimposing this leasing over that ground. It is not as if we could start out with a clean slate where all the ground could be leased. We have this patchwork proposition now where one claim could be under lease to the state and the adjoining one owned by the individual. That is one big difference between our situation and Canada's, as I see it. Now that is one point. The other is that we will have, when we finally get our one hundred and three million acres, we will have about 27 and one-half per cent of the land area of Alaska which will have this one type of mining law and leasing; the vast domain, 73 and one-half per cent will be under the federal laws which will appear more liberal and will be the part of the country that will attract the prospectors and the development. I think that is the problem that this Enabling Act has posed for us--how we can super-

impose this one type of mining land and bring it over the older one.

CHAIRMAN SMITH: For your information, Mrs. Nordale, there is at present approximately one hundred thousand acres held under mining patent.

MISS ALICE STEWART: Is this on mining entirely? I thought it might not hurt to bring up the fact about our forests. We have two national forests in Alaska. What I wanted to bring out is that we have five and five-tenths per cent of the Territory in national forests whereas most of the western states have a great deal more. For instance, California has nineteen and ..... per cent of its land area in national forests. Oregon has twenty-four and twenty-two hundredths; Washington has twenty-two and sixty hundredths. Because they have been taking care of it we have that forest. For that reason we can have saw mills, pulp mills. As we moved west the United States realized it was important to keep the resource which furnished wood for homes, pulp for paper and all that sort of thing. So there have been national forest established. Under the national forest policy certain restrictions are put on anyone who buys stumpage. They must be sure there will be enough of the old stand left in order that there will be forest in perpetuity and we can have supplies for our pulp and paper mills. This is a map I have here that gives the United States. All the green is national forests. Alaska is down here in the corner. You can see our forest is a small area for all of Alaska. I just thought that should be in the record. We have only five and five-tenths per cent. We are lucky to have it. I hope we keep using it the way we are.

CHAIRMAN SMITH: I am sure you understand, Miss Stewart, that when

we become a state it will not change the status of the national forest. The control will still be retained by the federal government.

MISS STEWART: I just wanted to bring up something about it. I assumed that would be so.

DELEGATE KING: Miss Stewart, the reason we never went into forestry was the fact that we have invited the regional foresters, both from the land office and the public domain, to be here. Of course, as you see, they are mostly mining people here and some of my pals, the fishermen, are here.

MISS STEWART: On the national forests, when they sell stumpage, twenty-five per cent of that money goes back to the area from which it comes. Of course, our twenty-five per cent is going into a fund because the native fund has not been settled. But other states get that twenty-five per cent for roads and schools for the area from which the money came from selling the stumpage.

DELEGATE KING: Mr. Chairman, I don't think we had better go into that twenty-five per cent very strongly.

DELEGATE SMITH: I agree with Mr. King on that. I would just like to say one thing in that connection. Mr. ....., the Regional Forester, was notified recently that his father had passed away, so he probably will not be able to appear here, but we are sure we will have competent advice from other men who are fully acquainted with forestry problems.

DELEGATE KILCHER: Are you intending to have another public hearing? Are you to have another hearing on other phases of resources--lands, for instance, and forests, because I have a couple of problems to bring up.

CHAIRMAN SMITH: I can't actually answer your question. Notice of this hearing stated that the hearing would cover all natural resources and it named those resources--lands, minerals, forests, water, fish and anything you could think of. I feel that we probably will and should hold another public hearing, but the schedule will have to be arranged at a later date. We simply cannot see right now when that time will be.

DELEGATE KILCHER: I would like to make a couple of remarks that might be well considered at this time by the Committee. I think it has some bearing on your deliberations. I realize that most things touching on land laws directly will be matters of legislation. There is something that might have bearing on the Constitution that I have brought up once before in an informal meeting, I think on the floor the first few days, and it is a matter that I also elaborated on in one of these Senatorial hearings in Anchorage two or three months ago, and that is concerning some of the closed lands in Alaska--lands that are closed now, specifically large areas in the Kenai Peninsula as a so-called moose breeding ground. It is a game refuge. It has been called that, but it is not. It is rather a big game hunter's refuge. It is a game refuge where you are allowed to hunt, but this is all you are allowed to do. The point is that we people in the Kenai Peninsula are particularly concerned about this area mentioned. Efforts have been made to change the status of this land--maybe they will meet with success within ten or twenty years--maybe never. However, if the status of this area could be changed, if I understand correctly, we have ten years as a state to choose and pick our lands.

CHAIRMAN SMITH: Twenty-five years.

DELEGATE KILCHER: I would like to know if these lands should be opened up within a twenty-five year period, if there would be a chance for the future state to retain a certain quota of the closable lands and to apply it on these lands in question, if they should be opened. In other words, if these lands, after they are opened, would revert to just ordinary federal lands from which we could still choose if we have some of your acreage left. What is your attitude?

CHAIRMAN SMITH: I would say, Mr. Kilcher, that if the state had an opportunity to choose this land, if removed from reserve status during the twenty-five year period, certainly the state could choose this land. If it remains in reserve status, then it probably could not. Some of the legal fraternity might want to correct me on that.

DELEGATE RILEY: Whenever any reserve lands are restored. public domain, Mr. Kilcher, the state will have a ninety-day reference to collect it, subject only to one other preference right. That is the Veterans statutory right, also a ninety-day period. That is the language in the present Enabling Bill. Assuming that language was retained, it would put the state in second position. Now this veterans preference measure was adopted in 1944, as I recall, and has been extended once. It is questionable whether it will be extended again. It remains to be seen. But I should say there is another feature there which might be noted, with statehood and with a considerably greater voice in Congress, Alaska will be in a much stronger position to insist on the restoration of many of these withheld properties, and some progress along that line should result.

DELEGATE WHITE: Mr. Kilcher, were you suggesting that the

Constitution should provide that the state retain some of its drawing power until the end of the twenty-five years on the chance that in the twenty-four years say some of these lands would be released?

DELEGATE KILCHER: At least to the extent of the desirable lands involved. That could be easily arrived at by statistics. I suggest that such a provision should be put in the Constitution for protection, because I think that before twenty-five years have elapsed these lands in question will be opened up. That seems to be the consensus of the people. These are some of the most valuable lands we have in Alaska, so I think it would be a wise move.

DELEGATE WHITE: It is sort of a gambling proposition, is it not, Mr. Kilcher, and it would be a little difficult for the Constitution to provide the terms for getting into this gambling game. It seems to me we might unduly restrict the legislature.

DELEGATE KILCHER: It might be a legislature matter. Maybe we first could establish that. It would be up to them probably. As I said, I did not know whether it was a specifically Constitution or legislative matter.

DELEGATE BOSWELL: I was just going to make the comment that it would probably work out that we would be taking this land over that twenty-five year period. I can't see how we could choose it any faster than five million acres a year. I don't believe it can be surveyed and assimilated any faster than that.

DELEGATE KILCHER: Maybe by the time my boys are grown it will be open.

DELEGATE RILEY: Touching on the same matter, while changes are being discussed in the Enabling Bill, I think we might well consider the extending of that period from twenty-five to fifty or seventy-

five years. It seems like a long time, but one may only look around to see that the state grants made years and years ago have been kept fully effective. In our own case, the grants made to the University are still in the process of selection. I think, too, with reference to Mr. White's mention of the gambling feature, that no one can tell-what lands appear valueless today may have considerable value twenty-five years hence or fifty years from now with perhaps changes in technologies and new discoveries.

CHAIRMAN SMITH: I would like to make one comment on land surveys. House Resolution ..... provides that the Secretary of the Interior will carry out the survey of the exterior beyond rights of lands patented to the state, and the situation is vastly different to what it was in all the states. Before the states could obtain land they had to be surveyed on the old rectangular survey pattern. I recall in the hearings before the Senate Committee in 1950 where this idea was first born, it was calculated that if Alaska followed that pattern it would take approximately fifteen thousand years, if I recollect correctly, before all the land granted to the state could have been surveyed under that system. However, we are very fortunate in that we had some very good friends in the Senate who said if that is the case they would bring forth a new concept of granting lands to a state. "We will provide for Alaska that they need only survey the exterior boundaries of land grants.

Did anyone else have any further statement or question.

MISS ALICE STEWART: I am curious about the minimum area that would be the outside boundary.

CHAIRMAN SMITH: In that connection the Senate Bill does set a limit. The House Bill makes no limitation whatsoever. Is there anything further to come before the Committee? If not, the Committee

BEN G. GELLENBECK
711 NO. FIRST STREET
TACOMA 3, WASHINGTON

December 8,1955

Mr. Burke Riley, Secretary
Committee on Resources
Alaska Constitutional Convention
University of Alaska
College,Alaska

Dear Mr. Riley:

Thank you for your letter of November 22,1955. I appreciate the opportunity you have afforded me to offer some suggestions for consideration by your Committee on Resources.

Obviously, the task of writing suitable constitutional provisions for the development of natural resources,and determining the proper ways and means whereby prompt, adaquate, exploration and development of natural resources can be achieved, thru a fair and equitable program for the operators,and at the same time assure a continuing return from the proceeds of such developments for the State, is indeed an important matter.

It would be extremely difficult for me to arrange for a trip to Alaska at this time,but I trust the attached suggestions pretaining to the exploration and development of potential oil and gas lands in Alaska may be deemed worthy of consideration by your Committee.

Sincerely yours,

Ben G.Gellenbeck

BEN G. GELLENBECK
711 NO. FIRST STREET
TACOMA 3. WASHINGTON

December 8, 1955

SUGGESTIONS FOR EXPLORATION AND DEVELOPMENT OF POTENTIAL OIL AND GAS LANDS IN ALASKA FOR CONSIDERATION OF THE COMMITTEE ON RESOURCES FOR ALASKA CONSTITUTIONAL CONVENTION.

Before outlining the plan proposed herein it may be helpful to point out briefly some of the advantages,and disadvantages, involved in the operation of the leasing programs of the Western Canadian Provinces where many isolated areas similar to Alaska are now being explored.

The fact that the mineral rights for most of the undeveloped oil and gas land in Canada are held by the various Provincial Governments,rather than by individuals, has enabled them to set up sufficiently large blocks of acreage to justify the heavy expenditures required to properly evaluate those areas for oil and gas production,and,what is probably more important from the standpoint of future returns to the Province, it has placed them in the position to participate in substantial returns thru a checkerboard leasing plan after a commercial discovery of gas or oil has been made.

In the Province of Alberta some of the bonuses paid for leases on lands in, or adjacent to, established producing areas have reached fantastic proportions in recent years,and similar bonuses can be anticipated in the future as new fields are discovered and brought into production. The checkerboard plan for leasing, after a discovery has been made, has been the main source of revenue for that Province.

Although many of the provisions of the Petroleum Regulations now in force in Alberta,and other Canadian Provinces, appear to be somewhat unfair to the

operators, one should not overlook the fact that those regulations were far more liberal and attractive prior to the discoveries which have made Canada an important oil producing nation. Had the original leasing requirements been so burdensome as to discourage exploration and development it is to be assummed that the important oil and gas fields of Alberta, British Columbia, Saskatchawan and Manitoba would not have been discovered.

As was the case in Canada, the needed exploration and development in isolated areas remote from transportation, can be accomplished only thru enlisting the aid of adaquately financed operating companies with technical staffs competent to do the job,and the inducements must be such as to justify the expenditures involved.

Fortunately for Alaska, many of the most promising potential oil and gas areas are now public domain,hence it is reasonable to assume that when those lands are turned over to the State of Alaska, virtually all of the Federal Lands, other than military reservations, Indian reservations, National Monuments,National Parks, etc., will be,or should be, turned over to the State to handle as it sees fit.

Another important point resides in the fact that most of the potential oil land,now open for entry in Alaska,is situated in remote areas far from water, rail, or truck transportation, hence is unsuited for normal agricultural development, or small scale oil exploration by individuals, thus it should not be too difficult for the State of Alaska to arrange to withhold prospecting rights for oil and gas in such areas until arrangements can be made to set up a leasing program along similar lines to those now in effect for remote areas in Alberta, British Columbia, Yukon and Northwest Territories, with similar provisions for the issuance of leases on a checkerboard arrangement after a commercial discovery has been made.

Obviously, there are other areas in Alaska such as Kenai Peninsula, Anchorage, Mantanuska,and the Cook Inlet area, where considerable oil exploration

work has already been done, and where there are many parcels of fee land already held under individual ownership..Eventually there will be state owned lands in those areas which will be available for oil and gas exploration. The plan suggested above would not be suitable for areas of this type.

In addition to the two classifications of oil and gas lands listed above, there will also be the problem of arranging for the leasing of State lands within producing fields,or known geologic structures, after discoveries of commercial production have been made.

Having outlined briefly the various types of oil and gas lands to be considered, I believe the following suggestions are worthy of your consideration as a means whereby you can best accomplish your objective - prompt and adaquate exploration, with a fair return to both the operators and the State.

Obviously, the first step should be the establishment of a Petroleum Board to handle all phases of petroleum exploration, regulation and production.

That Board should have ample latutude to set up,and lease,large blocks of State lands in remote areas, under terms and conditions which will be attractive to competent operators. It should have authority to establish rentals, royalties, drilling requirements, etc., as required to secure proper exploration and development. The Federal Leasing Act gives to the Secretary of the Interior the right to change the rate of royalties, rentals, etc. where the public good will be served. Your State Board should have similar latitude to encourage development where the common good will be served. If it were not for the fact that the Secretary of the Interior used that authority to approve the operating agreements now in effect in the Katalla-Yakataga, Kenai, and Cook Inlet areas, the important oil explorations now in progress along the Gulf of Alaska would have been impossible.

Provisions should be made for the employement of at least one competent and thoroughly experienced petroleum engineer, geologist or operator, to act as a technical advisor for the Petroleum Board.

It would be my suggestion that you arrange to pattern your petroleum regulations along the lines now in use by the Department of the Interior. The provisions for reporting on explorations, drilling, production etc.,as established by U.S.G.S. for the guidance of operators on Federal lands, should be most helpful to your State Board. Those regulations have been worked out in a very careful manner, in cooperation with the oil industry, to protect the interests of all concerned. Similar rules and regulations should be most helpful to your State Board.

I believe your state oil and gas lease regulations, except for the remote areas where it is suggested that you use the Canadian checkerboard system, should follow the standard Federal Oil & Gas Lease provisions and terms as to royalties, rentals etc., including the special provision which reduces the normal 12½% government royalty to only 5% for the first ten years after a new discovery of commercial production in any geologic structure in Alaska.

The sale of leases in proven areas, such as would be available under the proposed checkerboard plan, could follow the terms and arrangements now used by The Bureau of Land Management when calling for competitive bids on leases in known producing areas. The sliding scale of royalties used in such leases are not unreasonable for leases in producing fields.

In considering the use of a plan similar to those used by the Canadian Provinces effecting exploration in remote areas, you should not overlook the fact that those regulations were worked out over a period of years between the operators and the Provincial Governments,and should represent a fair and equitable basis for

similar operations in many of the more isolated areas of Alaska. Owing to the fact that there are many exploration parties now at work throught the northern Canadian areas where conditions as to climate, transportation, terrain etc., are about the same as in Alaska, it would seem reasonable to believe that if Alaska were in position to grant similar prospecting permits along the same general terms as the Canadian Provinces, there should be some major operators companies who may look with favor on Alaskan operations.

C
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December 6, 1955

By Ernest Patty, President, U. of Alaska

MINERAL RESOURCES

Members of Committee on Natural Resources
Alaska Constitutional Convention:

General Statement: You have requested me to appear before your committee on the subject of what should be written into the Constitution to govern mineral resources. I want to make it crystal clear that I am not appearing before you this afternoon as President of the University, but rather as a private citizen who has spent much of his life in Alaska's mineral industry.

It is my opinion that the Constitution should frame only the general principles that would insure that the mineral resources of the State are orderly developed for the good of all the people and not exploited by the unscrupulous. The details and ramifications should be left to the State Legislature and State officials, The general statement of principle at the bottom of page 58, Volume 1 of Public Administration Service Report, is, I believe, very well worded.

You will probably desire to go beyond this, and if you do I respectfully suggest the following:

1. Sub-surface rights of State Lands to oil, gas, coal, gravel and non metallic minerals shall be vested in the State and subject to leasing under laws and regulations spelled out by the State Legislature.

2. A distinction should be made between lands sold by the State vs. lands owned by the State. When the State sells land it should retain sub-surface rights and right of entry on all mineral deposits. Lands owned by the State should be under a leasing system for all minerals except metalliferous minerals.

3. Metalliferous mineral deposits on State Lands should be administered under existing U.S. mineral laws and the State should capture taxes on these mines after they are in profitable production. Since this is a controversial subject and at variance with the Public Administration recommendations, I will briefly outline my reasons for this suggestion:

1. Despite the popular conception that Alaska is a great storehouse of mineral wealth (we believe that it is), I call your attention to the fact that, so far as I know, today there is hardly a single producing underground metal mine operating in Alaska. The only exceptions are some small mercury mines in the Kuskokwim area and some small chrome mines near Seldovia. This startling condition is due to many causes:

a) Lack of prospecting incentive.

b) Unfavorable investment climate as contrasted to Canada. In Canada today practically every major U.S. mining company is engaged in metal exploration of metal deposits and are spending many millions of dollars in search of new mines. Their search is paying off and Canada is outstripping the United States as a metal producer. Why isn't a similar search being made in Alaska?

c) Venture capital is willing to fish for minerals in Alaska if the investment climate is sunny, but they are reluctant to attempt it if their bait box is goingto be pilfered before they have caught any fish.

d) It is assumed that State Lands will total about one hundred million acres. The area of Alaska is about 375 million acres. The State would own between 1/3 and 1/4 of all Alaska. The State

Lands will not be contiguous but will be interspersed with government lands. How will the poor prospector back in thehills know whether or not he is on State Lands? If the laws are unfavorable he will certainly try to avoid State Lands. Certainly a leasing system for metal properties will discourage development. It is so much simpler to do everything possible to encourage prospecting and development and capture State revenue out of production.

e) Oil and gas leases, and to a lesser extent, coal, embrace large areas, often involving many square miles. They lend themselves to leasing. Metallic mineral locations involve very small areas, at most just a few hundred acres.

In conclusion, I want to make one more statement and again I want to emphasize that this is entirely a personal conviction. I have no patience with the objections raised against absentee capitalism. This, in my book, is either sloppy thinking or political HOKUM. The early development of the United States was financed by European capital. The West was financed by capital from the Atlantic Seaboard. Alaska, as you all know, needs capital from the States. How else are we going to finance our pulp mills, hydro projects, mines, etc.? As I see it, we should leave nothing undone to create a favorable investment climate here. When they invest their money and "get their feet wet" we should not be punitive in our treatment of them - nor should we excuse them from paying fair taxes. I call your attention to the fact that our pulp resources have recently attracted venture capital from Japan.

E. L. BARTLETT
DELEGATE FROM ALASKA

SECRETARY
MISS MARY LEE COUNCIL

ASSISTANT SECRETARY
MRS. MARGERY SMITH

Congress of the United States
House of Representatives
Washington, D. C.

December 5, 1955

Mr. Burke Riley,
Secretary, Committee on Resources,
Alaska Constitutional Convention,
Convention Hall,
College, Alaska

Dear Mr. Riley:

Enclosed is copy of a letter I have today written Commissioner Holdsworth of the Territorial Department of Mines after reading his December Bulletin. For your information there is quoted here the language of especial interest:

"NATURAL RESOURCES AND THE PROPOSED ALASKA CONSTITUTION

"Representatives of various segments of the mining industry have expressed concern over the proposed Lands and Resources Article for the Alaska Constitution now under consideration by the Constitutional Convention at College, Alaska. Should the presently proposed Enabling Act be adopted by Congress, approximately 27% of Alaska's land would be affected by the provisions of this Article. This area to be owned by the State would no longer be open to normal mineral entry or staking of mining claims by individuals. The remainder of the area within the State's boundaries would remain under Federal jurisdiction which does allow such mineral entry. The confusion of having to operate under two entirely different sets of mining laws in a large and unsurveyed State can easily be foreseen. Probably the best expression of the feeling of the mining industry as a whole is found in the Declaration of Policy by the American Mining Congress which was adopted at Las Vegas, Nevada, October 10 to 13, 1955. Very briefly, the policy statement in this regard is quoted as follows:

"'We are opposed to any general cession to the various States of rights in public-domain lands within the several States that would interfere with mining locations under the General Mining Laws.

"'We are opposed to extension of the Leasing Act system to minerals and metals locatable under the General Mining Laws.'

"Representatives of the oil industry, particularly those now active in Alaska, have also expressed concern over the wording of the Article. Such a tight control which would allow only leasing of state lands, and on a limited acreage basis, would be a very definite deterrent to exploration of our natural resources by private enterprise.

"There is a general feeling on the part of many that the U.S. mining industry is being forced toward Alaska for the development of new mineral deposits as U.S. deposits dwindle. This actually is not the case. Any expansion by investment capital outside of the U.S. for the development of future ore deposits is, and will be, into those countries which offer the most satisfactory tax atmosphere. Under present conditions, Alaska does not fit into this category. U.S. investment capital by the billions of dollars has gone into Canada and other foreign countries where tax incentives are offered and where general economic conditions are more favorable.

"For several years, a large part of the relatively small amount of venture capital spent in Alaska in looking for favorable mineral deposits other than oil has been spent in merely researching old reports and making casual geological investigations. We must either make it attractive for new mining industry, or there will not be any new mining industry."

Sincerely yours,

Bob Bartlett

E. L. Bartlett

E. L. BARTLETT
DELEGATE FROM ALASKA

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SECRETARY
MISS MARY LEE COUNCIL

ASSISTANT SECRETARY
MRS. MARGERY SMITH

Congress of the United States
House of Representatives
Washington, D. C.

December 5, 1955

Mr. Phil Holdsworth,
Commissioner of Mines for Alaska,
Department of Mines,
P. O. Box 1391,
Juneau, Alaska

Dear Commissioner Holdsworth:

I have just read that part of the December 1955 Bulletin having to do with "Natural Resources and the Proposed Alaska Constitution."

Shortly before leaving Fairbanks I appeared before the Committee on Resources of the Constitutional Convention in connection with this very matter. At that time I discussed and presented to the committee a memorandum which had been prepared at my request relating to mineral lands provisions of the statehood bills. Copy of that memorandum is enclosed for your use.

It is not my intention here, or elsewhere, to set myself up as an advocate of the provisions relating to mineral lands which are found in the current statehood bills and which have been incorporated in the several bills of the recent past. The language was not mine but was inserted by members of the United States Senate; that they had reasons for doing so--whether or not those reasons appear valid to us--is explained in the memorandum. A main point, I should judge, was that the Senators did not propose to establish Alaska in an especially favored position in reference to disposal of minerals found under lands transferred to the state. As we recall, the earlier public domain states were not permitted to acquire any mineral lands whatsoever until 1927 and the law at that time provided minerals found in lands thereafter conveyed to the states should be disposed of only through leasing arrangements. It was the determination of the Senators in charge of the bill that Alaska in any case would be more favorably situated than the earlier public domain states because the percentage of land to be transferred to the state would be more than

double that given any previous state, and because Alaska would be the first public domain state to be permitted to acquire lands mineral in character from the outset.

In the December Bulletin you quote the declaration of policy adopted by the American Mining Congress at Las Vegas in October 1955 reading, "We are opposed to any general cession to the various states of rights in public-domain lands within the several states that would interfere with mining locations under the General Mining Laws."

Would you construe this to mean that no state eligible to receive land from the federal government under the 1927 Act should accept such land under the present language of the law? I now have before the Congress a bill which if enacted into law would bring about the transfer of 20 million acres of land from the public domain to the territorial government. As now drafted, this bill carries the same language regarding mineral leasing as do the current statehood bills. This is not because I favor a leasing system as such but because all evidence pointed to the improbability of obtaining an outright grant of minerals. I should be most pleased to have an expression from the Territorial Department of Mines regarding H.R. 246 of the 84th Congress; copies of that bill are enclosed.

The December Bulletin also relates that "Representatives of the oil industry, particularly those now active in Alaska, have also expressed concern over the wording of the Article. Such a tight control which would allow only leasing of State lands, and on a limited acreage basis, would be a very definite deterrent to exploration of our natural resources by private enterprise."

It will be most helpful to me if you will be good enough to elaborate on this concern of the oil industry which I had assumed, without having any specific knowledge on the subject, would be expecting to lease, not own, mineral rights under an Alaska state government.

Copy of this letter is being mailed to Mr. Burke Riley in his capacity as Secretary of the Committee on Resources.

Sincerely yours,

E. L. Bartlett

Hearings and Statements - Committee on Resources -

Territory of Alaska
Department of Mines

P. O. Box 1391
Juneau, Alaska

T D M BULLETIN

Vol. III

December 1955

No. 12

MINING ACTIVITIES

FIRST DIVISION - Climax Molybdenum Co's. drilling program on the Ross-Adams radioactive property, Prince of Wales Island, was halted for the winter last week. Present plans are for resumption of the drilling next spring, and possible construction of a tractor trail to the property.

THIRD DIVISION - The Kenai Chrome Co. closed down operations at Red Mountain for the winter on November 1. This year, they could not start until July 1 because of bad weather and snow conditions, but they report truck deliveries from the mine to the beach averaged 600 tons per week for the season, and hope to produce 7000 tons next year. They employ a crew of about 25 men when operating.

At last report, Moneta Porcupine Mines, Ltd., were still doing development work at the Red Top mercury property near Dillingham.

NATURAL RESOURCES AND THE PROPOSED ALASKA CONSTITUTION

Representatives of various segments of the mining industry have expressed concern over the proposed Lands and Resources Article for the Alaska Constitution now under consideration by the Constitutional Convention at College, Alaska. Should the presently proposed Enabling Act be adopted by Congress, approximately 27% of Alaska's land would be affected by the provisions of this Article. This area to be owned by the State would no longer be open to normal mineral entry or staking of mining claims by individuals. The remainder of the area within the State's boundaries would remain under Federal jurisdiction which does allow such mineral entry. The confusion of having to operate under two entirely different sets of mining laws in a large and unsurveyed State can easily be foreseen. Probably the best expression of the feeling of the mining industry as a whole is found in the Declaration of Policy by the American Mining Congress which was adopted at Las Vegas, Nevada, October 10 to 13, 1955. Very briefly, the policy statement in this regard is quoted as follows:

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Representatives of the oil industry, particularly those now active in Alaska, have also expressed concern over the wording of the Article. Such a tight control which would allow only leasing of State lands, and on a limited acreage basis, would be a very definite deterrent to exploration of our natural resources by private enterprise.

There is a general feeling on the part of many that the U.S. mining industry is being forced toward Alaska for the development of new mineral deposits

as U.S. deposits dwindle. This actually is not the case. Any expansion by investment capital outside of the U.S. for the development of future ore deposits is, and will be, into those countries which offer the most satisfactory tax atmosphere. Under present conditions, Alaska does not fit into this category. U.S. investment capital by the billions of dollars has gone into Canada and other foreign countries where tax incentives are offered and where general economic conditions are more favorable.

For several years, a large part of the relatively small amount of venture capital spent in Alaska in looking for favorable mineral deposits other than oil has been spent in merely researching old reports and making casual geological investigations. We must either make it attractive for new mining industry, or there will not be any new mining industry.

NEW DRILLING EQUIPMENT

Packsack Diamond Drills, Ltd., of North Bay, Ontario, has come out with a new Packsack drill, Model 2-AD, for short-hole core sampling underground. It is an air-driven Jackleg-mounted drill which weighs only 40 pounds complete with detachable Jackleg, and can be operated by one man. If used with a thin wall XRP bit, it produces 7/8" core.

Not new, but of possible interest to prospectors for hand-drilling shallow holes for blasting is a line of carbide insert chisel-type bits on short steel made by Brunner & Lay of 660 North Tillamook Street, Portland 12, Oregon. These items are referred to as "Whirli-bits" and are made for pneumatic hammers, but are small and light and could be used for hand drilling. They also list some longer steels that might be of interest. Information can also be obtained from Gardner-Denver Co., 615 Eighth Ave. South, Seattle 4, Washington. Canadian makers of carbide insert hand steel reported over a year ago are as follows: Kennametal Co. of Canada, Ltd., 1850 Blanshard St., Victoria, B. C.; and Air Equipment Service, Ltd., 1401 Hornby Street, Vancouver, B. C., attention Mr. Ken Newton.

U.S.G.S. NEWS

A report that will be of particular interest to prospectors in the vicinity of northwestern Chichagof Island has been released by the U. S. Geological Survey. It is a particularly good report from a prospector's standpoint, since it contains excellent geological descriptions of prospects of the district and practical prospecting information on favorable prospecting areas. The title is "Ore Deposits on Northwestern Chichagof Island, Alaska" by D. L. Rossman. It is on open file for study at the GS or TDM office in Juneau, or may be purchased by writing to the USGS at 4 Homewood Place, Menlo Park, California. The cost has not been learned.

The USGS has announced an examination for geologists GS-5 and GS-7 which will be given in Alaska on January 9. Prospective applicants for government positions in geology should file for the exam before the closing date, December 20, but we are informed that a 60-day extension period will apply for Alaskan residents who are unable to meet this closing date. Also has been announced a new examination for geologists GS-9 through GS-13, for which there is no closing date. For further information, contact your nearest USGS office, the TDM Juneau office, or write to the GS at 4 Homewood Place, Menlo Park, California.

ANTIMONY

The largest use of antimony is in alloys with lead where a lead-type metal is needed, but with greater strength and hardness than lead, in uses such as bearing metal, battery plates, printing type metal, solder, etc. Another use is in flame-proofing cloth.

Antimony is a strategic metal, as the mines of the U. S. produce relatively small quantities of antimony ores. China was the principal source before the war of the 10,000 to 18,000 tons of antimony used each year in the U.S. Since the war, Chinese supplies have been curtailed, and the U.S. has had to rely mostly upon Mexican, Bolivian, and South African sources, in addition to its own small output. U.S. supplies were greatly improved by development of the Yellow Pine mine at Stibnite, Idaho, and increased smelting facilities for foreign ores.

Problems of the antimony industry arise from its strategic nature. As we have depended largely on imported antimony ore and the demand has fluctuated sharply in periods of national emergency, the industry has gone through repeated cycles of activity and depression. Government restrictions and stockpiling programs have added to this instability. The problem continues because of the fact that U.S. reserves are small and low-grade as compared with those of the countries mentioned earlier. Thus the threat of overwhelming foreign competition is always of importance to U.S. producers.

The chief ore mineral of antimony is stibnite, which is antimony sulfide. There are complex sulfides with other metals and also several oxides, but these are relatively unimportant. Stibnite has a bright lead gray metallic luster on freshly broken surfaces, resembling galena, but is softer and lighter; crystals are prismatic or elongated rather than cubical, with striations perpendicular to the length. Often the crystals are curved or twisted. Hardness is 2, specific gravity is about 4.6, and streak is lead gray. Under heat, it will volatilize with white fumes which can be caught on charcoal.

Native antimony, a rare occurrence, is found in the K & D lode, owned by Herman Kloss at Sunset Cove, Petersburg district.

Stibnite is widely distributed, but its occurrence in large quantities is rare. It is commonly found in veins and fracture zones, but also as replacements in shales and limestones. It is of primary origin, and found most often with quartz. Sulfides of other metals are often present. In Alaska, stibnite is found associated with cinnabar in the Kuskokwim "mercury belt". Stibnite deposits are usually in small concentrations, pockety and irregular in form.

In Alaska, antimony has been found in workable quantities in several districts and is probably present in almost all others. It is present in the Hyder district, but has not been worked there. The Sleitmute district is mentioned above. Antimony mined with mercury there has not been saved. It has been mined in the Tok district, in the Sawtooth Mountains between the Livengood and Rampart districts, and a small amount in the Koyukuk near Wiseman. It has been mined from time to time in the Fairbanks district, where many small deposits exist.

Most of the actual production, however, has come from the Kantishna district, north of Mt. McKinley. Two mines here, the Stampede and the Slate Creek, have done the producing, with the Stampede doing by far the most. There is no antimony production at present in Alaska, but an exploration program is

going forward at the Stampede property, with the assistance of DMEA funds. A DMEA program was carried out two years ago on the Camaano Point prospect near Ketchikan. A good market would probably create many small antimony mining enterprises in Alaska. A local purchasing depot would beyond doubt be the answer.

Antimony references which may be of interest to the Alaskan prospector include the following: USGS Bulletin 936-N, Antimony Deposits of the Stampede Creek Area, Kantishna District, Alaska; USGS Open File Report, Antimony Ore in the Fairbanks District, Alaska; and USBM RI 4173, Antimony Deposits in Alaska. Other references can be supplied upon request.

The nearest smelter for antimony ores is at Stibnite, Idaho, but it is shut down at present. In September, 1954, the ODM announced that antimony was to be purchased on the open market from domestic sources for the "long term" stockpile and that it was on the suggested list of commodities to be obtained from foreign countries for the "supplemental" stockpile. However, to date there are no reports of any stockpile purchases of antimony for either program. The Mining World directory issue (April) lists seventeen possible purchasers of antimony. E&MJ currently quotes the following prices for antimony ore: "Per unit (20 lbs.) of antimony contained, 50 to 55%, $3.20 @ $3.35; min. 60% $3.90 @ $4.00; min. 65%, $4.05 @ $4.24." Antimony ore must be concentrated to at least a 50% product before shipping. A 50% product at the above prices would be worth $160.00 per ton, and a 65% product should bring $263.25 per ton less smelter charges, transportation costs, etc.

E. AND M. J. METAL MARKET PRICES

	Nov. 24 1955	Month Ago	Year Ago
Copper, per lb.	43.0¢	42.8¢	29.7¢
Lead, per lb.	15-1/2¢	15-1/2¢	15¢
Zinc, per lb.	13¢	13¢	11-1/2¢
Tin, per lb.	99-1/8¢	96-1/4¢	90-7/8¢
Quicksilver, per flask	$280-284	$276-281	$318-322
Silver, foreign, New York	91-5/8¢	91-5/8¢	85-1/4¢
Silver, domestic, per oz.	90-1/2¢	90-1/2¢	90-1/2¢
Platinum, per oz.	$97-114	$91-102	$77-84
Nickel, per lb.	64-1/2¢	64-1/2¢	64-1/2¢
Molybdenum, per lb.	$3	$3	$3
Tungsten ore, per unit	$63	$63	$63
Titanium ore (ilmenite) per ton	$20	$20	$18-20
Chrome Ore (48%, 3 to 1 ratio) per ton	$115	$115	$115

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Memorandum
Re
The Mineral Lands Provision of the
Alaska Statehood Bills

The bills in the 84th Congress for the admission of Alaska into the Union contain a provision which affirmatively declares that the land grants made or confirmed by those bills shall include mineral deposits, and which then proceeds to impose certain express restrictions upon the manner in which Alaska may administer any mineral lands so obtained by it. This provision constitutes section 205(j) in H. R. 2535, as reported by the House Committee on Interior and Insular Affairs on March 3, 1955, and section 205(k) in S. 49, as introduced. The provision was initially drafted in February, 1954, during the consideration of Alaska statehood legislation by the Subcommittee on Territories and Insular Affairs of the Senate Committee on Interior and Insular Affairs. It appears as a part of section 5(j) in the version of S. 50, 83d Congress, reported by that Subcommittee (Committee Print No. 4, dated February 24, 1954), and as section 5(k) in the version of S. 50, 83d Congress, reported by the full Senate Committee on February 24, 1954. Parenthetically, it should be noted that H. R. 2535 makes the proposed restrictions upon administration applicable to all three of the major land grants contemplated, whereas S. 49 would--following the precedent of S. 50, 83d Congress--exempt from those restrictions the grant of 800,000 acres for community development and expansion.

The reasoning which prompted the adoption of the provision in question by the Senate Committee is understood to be (1) that mineral deposits must be expressly mentioned in order for mineral lands to be encompassed by a Congressional land grant to a State; and (2) that Alaska should not be accorded greater freedom in the administration of mineral lands than that accorded existing States having Congressional land grants.

(1) During the years when the public land States of the West were being admitted into the Union, it was the general policy of the Congress to include only nonmineral lands within the grants customarily made to new States. Thus the acts under which Colorado (Act of March 3, 1875, 18 Stat. 474, 476), N. Dakota, S. Dakota, Montana and Washington (Act of February 22, 1889, 25 Stat. 676,681), Idaho (Act of July 3, 1890, 26 Stat. 215, 217), and Wyoming (Act of July 10, 1890, 26 Stat. 222, 224) were admitted specifically provide that "all mineral lands shall be exempted" from the grants made to those States. Language affirmatively excluding mineral lands also appears in the enabling legislation for New Mexico and Arizona (Act of June 20, 1910, 36 Stat. 557, 561, 565, 572, 575), and in the statute under which Nevada obtained a "right of selection" grant in lieu of its original school section grant (Act of June 16, 1880, 21 Stat. 287, 288). The enabling legislation for Oklahoma, on the other hand

From: Office of the Solicitor, Dept. of the Interior - 1/7/55 (See Resources correspondence folder)

Committee on Resources

hand, expressly included mineral lands within the grants to that State, but prohibited the State from disposing of such lands, except by short-term leases, prior to a specified date (Act of June 16, 1906, 34 Stat. 267, 273).

With respect to those situations where, as was true of the Utah grants and the California school section grant, the law making the grant neither affirmatively included nor affirmatively excluded mineral lands, the Supreme Court has held that the failure to mention mineral lands was tantamount to an express exclusion of them from the grant. In United States v. Sweet, 245 U. S. 563 (1918) the Supreme Court, in deciding that the grants to Utah did not encompass mineral lands, summarized its previous decisions and its views on this subject in the following passages of its opinion:

> In the legislation concerning the public lands it has been the practice of Congress to make a distinction between mineral lands and other lands, to deal with them along different lines, and to withhold mineral lands from disposal save under laws specially including them. This practice began with the ordinance of May 20, 1785, 10 Journals of Congress, Folwell's ed., 118, and was observed with such persistency in the early land laws as to lead this court to say in United States v. Gratiot, 14 Pet. 526, "It has been the policy of the government, at all times in disposition of the public lands, to reserve the mines for the use of the United States," and also to hold in United States v. Gear, 3 How. 120, that an act making no mention of lead-mine lands and providing generally for the sale of "all the lands" in certain new land districts, "reserving only" designated tracts, "any law of Congress heretofore existing to the contrary notwithstanding," could not be regarded as disclosing a purpose on the part of Congress to depart from "the policy which had governed its legislation in respect to lead-mine lands," and so did not embrace them.

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By the Act of March 3, 1853, c. 145, 10 Stat. 244, Congress granted to the State of California sections 16 and 36 in each township for school purposes and large quantities of lands for other purposes. Mineral lands were neither expressly excepted from nor expressly included in the grant of the school sections, but were specially excepted from the other grants. This difference led to a controversy over the true meaning of the school grant, the state authorities taking the view that it did, and the land officers of the United States that it did not, include mineral lands. Ultimately the controversy came

before this court in Mining Co. v. Consolidated Mining Co., 102 U. S. 167, and the position taken by the land officers of the United States was sustained, the court saying, p. 174:

"Taking into consideration what is well known to have been the hesitation and difficulty in the minds of Congressmen in dealing with these mineral lands, the manner in which the question was suddenly forced upon them, the uniform reservation of them from survey, from sale, from preemption, and above all from grants, whether for railroads, public buildings, or other purposes, and looking to the fact that from all the grants made in this act they are reserved, one of which is for school purposes besides the sixteenth and thirty-sixth sections, we are forced to the conclusion that Congress did not intend to depart from its uniform policy in this respect in the grant of those sections to the State.

"It follows from the finding of the court and the undisputed facts of the case, that the land in controversy being mineral land, and well known to be so when the surveys of it were made, did not pass to the State under the school-section grant."

That ruling was reaffirmed and followed in Mullan v. United States, 118 U. S. 271, where valuable coal lands, known to be such, were held not to be open to selection by the State as indemnity school lands.

The conditions ensuing from the discovery of gold and other minerals in the western States and Territories resulted in a general demand for a system of laws expressly opening the mineral lands to exploration, occupation and acquisition, and Congress, responding to this demand, adopted from 1864 to 1873 a series of acts dealing with practically every phase of the subject and covering all classes of mineral lands, including coal lands. These acts, with some before noticed, were carried into a chapter of the Revised Statutes entitled "Minerals Lands and Mining Resources." Taken collectively they constitute a special code upon that subject and show that they are intended not only to establish a particular mode of disposing of mineral lands, but also to except and reserve them from all other grants and modes of disposal where there is no express provision for their inclusion. Thus the policy of disposing of mineral lands only under laws specially including them became even more firmly established than before, and this is recognized in our decisions. Mining Co. v. Consolidated Mining Co., supra, 174; Deffeback v. Hawke, 115 U. S.

392, 402; Davis v. Weibbold, 139 U. S. 507, 516. And while the mineral-land laws are not applicable to all the public land States, some being specially excepted, there has been no time since their enactment when they were not applicable to Utah.

Another statute indicative of the policy of Congress and pertinent to the present inquiry is the Act of February 28, 1891, c. 384, 26 Stat. 796, which defines the indemnity to which a State or Territory is entitled in respect of its school grant. In addition to dealing with deficiencies occurring in other ways, it provides, "And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory where sections sixteen or thirty-six are mineral land." In this there is a plain implication that where those sections are mineral--known to be so when the grant takes effect--they do not pass under the grant. And it does not militate against this implication that under another provision the State may surrender those sections and take other lands in lieu of them where, although not known to be mineral when the grant takes effect, they are afterwards discovered to be so. See California v. Deseret Water & Co., 243 U. S. 415.

What has been said demonstrates that the school grant to Utah must be read in the light of the mining laws, the school land indemnity law and the settled public policy respecting mineral lands, and not as though it constituted the sole evidence of the legislative will. United States V. Barnes, 222 U. S. 513, 520. When it is so read it does not, in our opinion, disclose a purpose to include mineral lands. Although couched in general terms adequate to embrace such lands if there were no statute or settled policy to the contrary, it contains no language which explicitly or clearly withdraws the designated sections, where known to be mineral in character, from the operation of the mining laws, or which certainly shows that Congress intended to depart from its long prevailing policy of disposing of mineral lands only under laws specially including them. It therefore must be taken as neither curtailing those laws nor departing from that policy.

The members of the Senate Committee on Interior and Insular Affairs who took an active part in the study of S. 50, 83d Congress, considered that, in the light of the holdings of the Supreme Court, statutory language expressly including mineral deposits within the contemplated land grants to Alaska would probably be necessary in order for these grants to encompass mineral lands.

(2) A material change in the attitude of the Congress towards the granting of mineral lands to the States was evinced by legislation initially enacted in 1927 and amended (in particulars not here material) in 1932 and 1954 (Act of January 25, 1927, 44 Stat. 1026, as amended May 2, 1932, 47 Stat. 140, and April 22, 1954, 68 Stat. 57; 43 U. S. C., 1952 ed., secs. 870, 871, Supp. II, sec. 870). This legislation provides, in effect, that all grants to the States of numbered sections in place for the support of public schools shall encompass sections that are mineral in character equally with sections that are nonmineral in character. The legislation further expressly states that its provisions shall not be applicable to grants other than those of numbered school sections in place, nor to indemnity or lieu selection rights under school section grants. Its provisions, therefore, would not extend of their own force to any of the grants proposed to be made in the Alaska statehood bills here under consideration, since these would be "right of selection" grants rather than grants of numbered sections in place. Furthermore, the 1927 legislation states that "all lands in the Territory of Alaska" are excluded from its operation.

The act of 1927 sets forth, in addition to the provisions just mentioned, certain conditions which the States must observe in administering mineral lands obtained by them under that measure. Summarized in general terms, these conditions are: (1) that the States must reserve the mineral deposits from any disposition of title to the lands; (2) that the mineral deposits shall be subject to lease as the State legislatures may direct; and (3) that the income derived from leasing the mineral deposits is to be utilized for public school purposes by the States.

The incorporation in S. 50, 83d Congress, of the restrictions that now appear in sections 205(j) of H. R. 2535 and 205(k) of S.49 presumably reflected a desire upon the part of the Senators concerned to achieve, so far as practicable, parity of treatment between Alaska and the existing States having Congressional land grants. In other words, the thought was that Alaska should be allowed to obtain mineral lands only if it would administer them in substantially the same manner that States now having mineral land grants are required to administer the lands obtained by them under those grants. This is evident from the close parallelism between the conditions proposed to be imposed upon Alaska and those contained in the 1927 act. Omission of the third of the conditions set forth in the latter may be attributed to the fact that S. 50, 83d Congress--unlike some of the earlier statehood bills--did not earmark for public school purposes any of the land grants proposed to be made by it, whereas the 1927 act applies to grants that were so earmarked at the time they were made.

The action taken with respect to S. 50, 83d Congress, was, however, not the first occasion upon which the Senate Committee on Interior and Insular Affairs has incorporated restrictions upon the

disposition of mineral lands in statehood bills for Alaska. The original proposal for the making to Alaska of a "right of selection" grant in lieu of a grant of numbered sections in place--as presented to the Committee in 1950 by Senators Anderson and O'Mahoney (Section 5b) of Committee Print A, dated May 23, 1950, of H. R. 331, 81st Congress)--reads as follows:

> "After five years from the admission of Alaska into the Union, the State, in addition to any other grants made in this section, shall be entitled to select not to exceed twenty million acres from the vacant, unappropriated, and unreserved public lands. Such selections shall be made in reasonable compact tracts. Where the lands desired are unsurveyed at the time of selection, the Secretary of the Interior shall survey the exterior boundaries of the area requested without any subdivision thereof and shall issue a patent for such selected area in terms of the exterior boundary survey. Such lands may be granted or sold by the State in tracts of not more than _____ acres for any purpose but with a reservation to the State of a royalty of not less than _____ per centum on all minerals produced therefrom." (Underlining supplied.)

Section 5(b) of H. R. 331, 81st Congress, in the form in which it was subsequently reported by the full Committee on June 29, 1950, read as follows:

> "After five years from the admission of Alaska into the Union, the State, in addition to any other grants made in this section, shall be entitled to select not to exceed twenty million acres from the vacant, unappropriated, and unreserved public lands in the State. Such selections shall be made in reasonably compact tracts: Provided, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied. Where the lands desired are unsurveyed at the time of selection, the Secretary of the Interior shall survey the exterior boundaries of the area requested without any subdivision thereof and shall issue a patent for such selected area in terms of the exterior boundary survey. Such lands may be granted or sold by the State in tracts of not more than 640 acres for any purpose, but with a reservation

to the State of a royalty of not more than 12½ per centum on all minerals produced therefrom. The lands granted to the State of Alaska pursuant to this subsection, the income therefrom and the proceeds thereof when said lands are sold, shall be held by said State as a public trust for the support of the public schools and other public educational institutions." (Underlining supplied.)

Section 5(b) of S. 50, 82d Congress, as introduced and also in the form in which it was reported by the Senate Committee on May 8, 1951, contained language identical to that last above quoted.

These earlier proposals, it will be noted, differ in a number of respects from the restrictions contained in the bills now pending. In particular, the current language expressly calls upon Alaska to adopt a mineral leasing system, while the earlier versions permitted the mineral deposits to be disposed of along with the surface, provided a royalty interest was reserved by the State. On the other hand, the current language does not attempt to prescribe maximum or minimum rates of royalty as did the earlier versions, but appears to leave the terms of leasing wholly to the discretion of the State legislature. From a practical standpoint, this second difference may be more important than the first, since if the Alaska legislature is left, as H. R. 2535 and S. 49 now intend to provide, with the untrammelled right to frame its own mineral leasing laws, it can, if it so chooses, establish priorities that will tend to keep the surface and mineral rights in the same hands and can, in general, fit the provisions of its mineral leasing system to whatever may be its concepts of the public interest.

November 29, 1955

Statement of James D. Crawford before the Resources Committee of the Alaska Constitutional Convention

X/Resources/7

Mr. Chairman and Honorable Delegates:

My name is James D. Crawford. I am a mining engineer with residence in Alaska for the past 27 years. My mining experience covers a period of 31 years during parts of which I have worked in production of lead, zinc, copper and gold and have done geological and exploration work in Alaska and elsewhere on a number of other metals. I have been employed by United States Smelting Refining and Mining Company since 1929 and am presently a Vice President and the General Manager of Alaskan Operations for that company. During approximately eight years of employment with this mining company, I was in direct charge of and conducted all of its mine examinations in Alaska, including examinations of prospects other than gold. I thus obtained considerable first hand information on mineral occurrences in a large part of the Territory. I am appearing here as an individual Alaskan whose first interest is the development of Alaskan mineral resources, and I hope that what I have to say will be helpful to you in arriving at constitutional provisions relative to resources that will encourage rather than discourage development of the mineral industry in the State of Alaska, to be.

The pattern of enabling statehood legislation so far proposed for Alaska indicates that the major portion of its heritage from the Federal Government will be in the form of lands from which the realization of wealth will depend upon development of expected but unproven mineral resources. With regard to these possible resources, printed reports made available to you and addresses made by individuals have stressed, in a perhaps exaggerated manner, the dangers of private exploitation but have not given recognition to the uncertainties of the expected resources and the prime need for incentives for their development with the unfavorable competitive metal market position of most of Alaska that now exists and probably will continue for some time.

Widespread known mineral occurrences in Alaska indicate a reasonable chance for the eventual development of a substantial mineral industry but we are faced with the following realities that should not be overlooked:

(1) Most of Alaska is in an unfavorable economic position for operation of other than high grade base metal mines because of high production and transportation costs and remoteness from market. Barring reduction of these costs or unlikely metal price increases, this condition may well continue until near exhaustion of less costly operations elsewhere justifies activity in high cost areas like Alaska.

(2) Despite glowing references occasionally heard to the "great unscratched mineral resources of Alaska", the facts are that there were many prospectors in the hills in the early 1900's searching for metals other than gold, as attested by the numerous shafts and tunnels on base prospects even in remote portions of Alaska, and literally hundreds of Alaska mine examinations have been made by engineers from leading mining organizations of the United States, but, as a result of all this work, there have been only two large base metal mines brought to production in western Alaska, and that possible only because one was of a bonanza character.

(full distribution)

In a comparable period after gold discovery in our principal western mining states, a large number of base metal mines became productive. Many have continued to date and some rank among the largest in the world. By camparison, there are no large mines, other than placer gold and coal mines, operating in Alaska today.

In short, Alaska's mining industry, and particularly that of Western Alaska, is an ailing one. If it is to be given a chance to develop to sufficient stature for realization, within reasonable time, of the expected mineral wealth to come to Alaska from Federally donated lands, care must be taken in framing constitutional provisions to avoid further hampering of mining development.

The administration of mineral resources in state lands, is of prime importance to the mining industry and will be an important factor in shaping the success or failure of future Alaska mineral development. Most of the policy in this regard will be and should be matters for legislative determination but the constitutional provisions, which come under consideration of this committee, will determine the legislative course.

Congressional policy in granting public lands for school support to our most recently admitted states has established restrictions against state alienation of the mineral rights in such lands other than by lease. The committees of Congress that subsequently have had Alaskan statehood under consideration have attempted to fit this policy to all Federal gift lands and it has been so provided in the latest proposed enabling legislation for Alaska.

It is my personal feeling that a change over from the present Federal land policies on mining claims, which permit acquisition of ownership, to a state administered leasing system will have some retarding effect on the development of state land mineral resources and will direct preference to the seventy odd percent of Alaska remaining in the public domain. It is difficult to forsee the specific problems that would arise but it is believed that the elimination of ownership incentive, which historically to Americans has been the motivating force that has led to major discoveries, the imposition of royalties, which in effect constitute a severance regardless of profit or loss, and the possibility of oppressive requirements that might be brought about by legislative vagaries would have a discouraging effect on the prospector and miner. There are also considerations with respect to ownership and amortization of plant structures and other uncertainties that would develop under a state leasing system and possibly result in extraordinary caution on the part of investors.

In view of its established school land policies, it is possible the Congress would not, in any case, approve enabling legislation that would relax the non-alienation requirement as to all the proposed Federal grant lands to Alaska. However, the situation with respect to Alaska wherein it has been proposed to apply the restriction to an unprecedentedly large non-school land area, and thus handicap state lands competitively with the public domain, merits consideration for relaxing the requirement to an extent at least. The proposed restriction is inconsistent with the Federal land policies regarding metal mining property. It is difficult to understand the reason for such seemingly inconsistent proposal other than concern over exploitation or the possibility of state lands passing into the hands of "five or six" big companies or corporations, as emphasized in certain printed matter made available to you. As to the validity of this position with respect to the metal mining industry, it is submitted that:

(1) The curb to exploitation lies in legislative ability to tax. Under the existing organic law and presumably under the pending constitution there is and will be ample authority for the purpose without resorting to constitutional curbs on industrial development.

(2) Even under present mining location laws, which permit acquisition of ownership and are less restrictive than a leasing system would be, there is no "clamoring at the gates", so to speak, for the mining lands of Alaska. On the contrary, more interest is desirable.

It is believed that the best land regulation with respect to Alaska's mineral resource development would be one departing as little as possible from existing Federal and Territorial regulations, both from the standpoint of the mineral industry and expense to the state. Whether or not this would be possible, if it proved desirable, would of course depend upon the terms of final enabling legislation.

I would not suggest writing mining rights provisions into the constitution that are directly contrary to the wording of the most recently proposed enabling legislation, but neither does it seem prudent to attempt to anticipate the provisions of the final enabling legislation, particularly under existing conditions, by writing in a leasing requirement. It is believed that the mineral development of Alaska would best be served by a provision expressed broadly enough to allow for adjustment to whatever form the final enabling legislation may take. Therefore it is respectfully urged that you thoroughly consider for the constitutional provision, a simple declaration to the effect that the lands to be granted shall be held by the state in trust for the people, to be disposed of as may be provided by law, for the respective purposes and in accordance with requirements of the enabling legislation.

I greatly appreciate having had the opportunity to make this statement before this committee and shall, of course, be pleased to attempt to answer any questions you may care to ask me.

ALASKA CONSTITUTIONAL CONVENTION
Resources Committee

Statement of William I. Waugaman before the Resources Committee of the Alaska Constitutional Convention:

Mr. Chairman and Honorable Delegates:

My name is William I. Waugaman, General Manager of the Usibelli Coal Corporation. I am appearing here as an individual with the sole interest of Alaska's future development in mind.

I have read and am familiar with both the United States Senate and House of Representatives Enabling Acts. I have also read the Staff Study prepared for the Constitutional Convention as it pertains to our natural resources. I am also familiar with the United States Mining Laws as well as the leasing laws of our coal lands.

To me it is disturbing to learn that the present enabling legislation compels the new State to control the mineral rights of all its lands through a system of leasing. I admit that we have had no serious problems arise as to the administration of our coal leases. However, I can visualize many problem areas, especially if we had over-zealous, partial, or grafting administrators. Furthermore, coal is a great deal different than most other minerals. It requires relatively little prospecting and, having Alaska for its market, is very limited as to its development.

The problem we must keep foremost in our minds is that much of Alaska's future development depends on the development of our minerals. With the Federal Mining laws as they now stand, which are comparatively liberal and unrestrictive, we still can't seem to arouse much enthusiasm for Alaska among the prospectors and mineral developers. The reason for this, I am sure you will agree, is one of plain economics. In other words, the mere stamp of "Mined in Alaska" doesn't make our exported minerals any more valuable to the importer despite the fact that the miners' operating costs, transportation costs, and taxes are some of the highest in the world. If we intend to develop our minerals we must seek means of offering incentive to the prospectors and investment capital, rather than write a constitution that is even more restrictive than our present laws.

It is my understanding that approximately twenty five percent of Alaska's lands will be turned over to the State under the presently proposed congressional enabling legislation. This, if passed, will leave about three fourths of the land under Federal ownership and Federal mining laws. This, I am sure, will result in much confusion to the prospector as to boundaries, especially if there are different mining laws for State and Federal lands. It will further result in the prospector favoring the areas that are administered under the mining laws which are most favorable to him. This will apply to investors as well.

As I read the Staff Study on Resources I noted several references to the possible exploitation of mineral resources. I agree that steps must be taken to prevent the wasting of any of our resources, but they sure won't be wasted if they aren't developed. If they aren't developed Alaska won't realize much revenue from the land we inherit on becoming a state, and land isn't much good if the state can't realize revenue from it.

I also noted referenced to the Kennecotts' exploitation of Alaska's only Copper bonanza. In the mining of most minerals there is a very fine line of demarkation between development and exploitation. Once the mineral is mined and exported and there is no more ore economically mineable all you have remaining is a ghost town and a hole in the ground. I have heard it rumored that Kennecott high graded the ore of their deposit. However, after talking to several people who worked at Kennecott and held responsible positions with the firm, the answers were in the negative. It stands to reason that any mining company is not going to install and operate ammonia leaching and flotation plants for high grade ores. Furthermore, it is not logical that any firm with an investment as large as Kennecotts' would by-pass any ore that was economically mineable. It is my opinion that in writing our constitution we must concern ourselves with making certain that it does not contain anything of a deterring nature to the development of our natural resources.

If our present Federal laws are inadequate, let the Legislature correct them when Alaska becomes a State, but let's not be stampeded into writing restrictions in the Constitution that doesn't fit Alaska just because we are anxious for statehood and anxious to please a few United States congressmen who don't know our local problems. Statehood may prove to be a fine thing, but I think this price is too high for it. If our Congress is so eager to protect Alaska from exploitation, why don't they amend the Federal mining laws rather than insist that Alaska choke itself by writing a Constitution that will not only eliminate the possibility of new mining developments, but will also eliminate incentives for the prospector?

I sincerely thank you for the opportunity of appearing before this Committee and stating my thoughts on the problem at hand.

December 6, 1955.

Statement to Committee on Resources

My name is Ernest Wolff. I have been in Alaska since 1938. I am here today because of a public invitation issued to persons who have opinions to express on the disposition of resources by the future State. I represent only myself and my family. I graduated in 1941 as a mining engineer from the School of Mines, University of Alaska. I was engaged in geophysical work during and for a time after the war. For three or four years I have been employed by the School of Mines in research and lately in research and teaching. I still am active and interested in prospecting, devoting to it time and money each summer. In the past two years, due to increasing home responsibilities I have been able to spend only about one month of each year prospecting, but endeavor to plan the work so that it moves toward proving or disproving my prospects.

I had no steady job, spending summers prospecting. During the last few years

I am extremely interested in seeing Alaska, whether as a territory, or as a State, develop her institutions and industries, and to obtain a fair share of the production of such industries. My home is here, my work is here, my family is here, and for better or for worse, will be here for a long time to come.

During my time in Alaska I have become familiar with Alaskan economics, and I believe that I have a good understanding of ~~XXXXXX~~ the problems con-

minerals

fronting Alaska as a whole and the mining industry in particular.

I would like now to comment upon some of these problems from the viewpoint I have obtained as a part time prospector. In particular I want to comment upon the effects, as I see them, of contemplated changes in our methods of disposal of mineral rights in lands which might be granted to our State. I refer to a change from ownership to leasing.

The last major gold discovery was made in 1914, if we except the Hog River. In the whole field of mineral industry, there has been but one important discovery made since 1914; ~~I refer to~~ the Goodnews Bay platinum deposit. The increase of gold mining during the thirties was due not to new discoveries, but to increased reserves due to improved technology and lower costs. The Alaskan mining industry, with a few notable exceptions, has been coasting upon reserves outlined from discoveries made 40 or more years ago.

When we speak of the mineral potential of Alaska, we mean that in an area the size of this Territory, with its large relatively unprospected areas between known mining districts, there must be undiscovered deposits. No miner that I know speaks of undeveloped deposits which are now known to be of commercial grade or size. Again there may be exceptions, but they are rare. If we are to develop a sound mining industry, therefore, somehne has to get out and look for new deposits, not just expand the limits of old producing ones.

There is a small, pitifully small, group of men now looking for new deposits. During the last few years I know of two prospects found as a result of their efforts, namely the McLaren River Copper and the Prince of Wales Island Uranium. Whatever their original intentions, the discoverers of both deposits decided that they were in no position to mine them themselves, and turned them over to larger, well financed and equipped companies. It is likely that this is the primary aim of most of the men looking for new deposits today.

Where is the money coming from to repay these men for their work and investments? It must come from a royalty on the production from their discoveries, or from the proceeds of an outright sale. Such an outright sale is extremely difficult to effect at the present time. The truth is that there is little competition today for mining ground. The reverse is true, there is a dearth of people and capital willing to look into unproved ground.

I believe that it is regrettable that so little effort is being made to find new deposits. I believe that the incentive stimulating most of the effort that is being made today is not the hope of being allowed to mine, but rather the hope of owning, with the right to sell or lease, whatever might be found. I believe that if the right to own what a prospector finds is taken away, that the majority of prospecting in the lands affected will cease.

The only remedy would then be a system of rewards, subsidies, and special considerations, costly to administer, and which would end up attempting to do only what ownership can do, and doing a poor job of it.

As you all know, our mining law is based upon discovery, appropriation, and development work. Under no circumstances can a person withdraw land from the public domain for more than two years without working upon it. The public domain is not being indiscriminately gobbled up. Claims are being staked each year, and other claims, found to be worthless, are passing back. If the land is valuable, it will be relocated as soon as it becomes legally open. The government is not interested in what a man does to protect his rights prior to patenting, but , again if the land is valuable, his neighbors will certainly be interested. When a claim comes to patent, however, the Government is very jealous of its rights, and the patent proceedings are costly and drawn out, subject at any time to challenging from individuals and the government. It is no easy matter to patent a claim, and it is not done without proving responsibility and the best of intention.

How is the State to encourage, on the one hand, prospecting, and on the other hand, to see that the industry pays its fair share to the support of its institutions? Taxation, the most powerful regulatory weapon of governments,

is also the most flexible. A graduated tax, exempting prospectors and small producers, and demanding a portion of the income of established and prosperous mines, is the fairest, simplest, and most remunerative system we can devise.

To recapitulate, I believe that ownership and the payment of taxes are preferable to leasing and the payment of royalty. I have attempted to give you my reasons. The confusion and inefficiency that would result from 2 sets of mineral rules needs no commenting on.

Nothing in the foregoing should be construed as applying to oil, gas, or coal lands. Differences in the geology and economics of these deposits put them in an entirely different category.

STATEMENT OF
ALASKA MINERS ASSOCIATION
for the
COMMITTEE on RESOURCES
ALASKA CONSTITUTIONAL CONVENTION

The attention of the Alaska Miners Association has been called to the "Proposed Lands and Resources" article in the "Constitutional Studies" prepared by the Public Administration Service.

The Miners Association represents a majority of the mine operators of the Territory with long years of experience under the mining laws of the United States. It is our opinion that the wording of Section 2 of said article, if adopted, would retard development of the mineral resources on the lands acquired by the state. This would be particularly unfortunate at a time like the present when the mining industry of Alaska needs help and encouragement.

Our objections to Section 2 are its proposal to substitute a mineral leasing system on most of the state land in place of the present system of mining locations, and its proposal, if mineral rights are sold or otherwise disposed of, to limit the aggregate area of such mineral rights which can be owned by an individual or corporation.

LEASING

Our attitude toward leasing systems as applied to metalliferous mineral deposits is well expressed by the 1955 Statement of Policy of the American Mining Congress, which reads as follows:

"We are opposed to any general cession to the various States of rights in public-domain lands within the several States that would interfere with mining locations under the General Mining Laws.

"We are opposed to extension of the Leasing Act system to minerals and metals locatable under the General Mining Laws."

The reason for this opposition to a leasing system for metalliferous mineral deposits are simple and have been set forth many times by spokesmen for the industry.

The existing laws for the location and patenting of mineral ground have been in existence for nearly 90 years. They have been thoroughly interpreted by a tremendous mass of court decisions, their meaning is well established, and under them the mining industry has prospered. To a large extent this has been because of the assurance given to the discoverer of a mineral deposit that by complying with certain relatively simple regulations requiring little or no capital, he could hold possession of the ground he was working against all comers and eventually obtain a fee simple patented title. He also had the assurance that later he, or any individual or corporation to whom he might dispose of his interest, could safely make the large capital investment required for large-scale mining operations without having the rules changed in the middle of the game by Congress or the arbitrary action of an administrative department, as they can be under a leasing system.

Aside from these general objections which exist to a leasing system anywhere, there are many conditions in Alaska which would make a leasing system for metalliferous minerals particularly difficult. Among these conditions are the great distances involved,

the fact that most of the public lands are unsurveyed, and the prospect that it will take many years at the present rate to complete such surveys.

Based on the present coal, oil and gas leasing regulations, presumably the first step which would have to be taken under a leasing system by a metal prospector on state lands would be an application for a prospecting permit covering the area where he intends to prospect. If the area happens to be unsurveyed (as it will be in most cases), the only description he could give of its location would probably be by reference to natural features such as streams or mountains. After checking to make sure that the area applied for is on state lands and no other prospecting permit has been issued, the State Land Office would presumably issue a permit giving the holder the exclusive right to prospect there for a stated period of time and a preferential right to a lease on some portion of the area upon proof of mineral discovery. He may never go on the ground due to circumstances beyond his control or he may prospect there for a few months and quit without notice, but his prospecting permit would run its full term and the ground would remain tied up until it expires.

If the prospecting permit procedure is omitted entirely, the prospector who finds a valuable mineral deposit on state lands would have no protection and no assurance that he, and not someone else, would get a lease on it. He could not protect himself immediately by erecting stakes and a notice on the ground as he can with the present law.

Assuming, however, that a prospecting permit is required and he has obtained one and found a vein or paystreak, the next requirement presumably would be an application for a lease on the most favorable area, accompanied by proof of a discovery, a guarantee that he will perform a specified amount of work or make a specified expenditure each year, proof that he would be financially able to do so, and either a properly tied-in survey of the boundaries or the numbers of the section and township in which located.

If the desired lease is on surveyed land (which most newly discovered deposits are not), it would theoretically be granted as soon as all the facts had been verified, but this could, and judging by past experience on coal leases probably would, require several months, and there would always be the chance of further delays because of some technicality in the regulations.

If the lease in question happens to be on unsurveyed land or on lands which had only been surveyed around their perimeter as most of them will be under the most recent statehood bill, the granting of the lease would be delayed until the prospector could obtain a mineral survey of his own, or the Land Office survey network could be extended to that area which, judging by the past progress of Bureau of Land Management surveys, might take many years.

This time interval between the acquisition of state lands by perimeter surveys and the time when most of them can be made available for leasing, and the consequent delay which it will cause in the development of the minerals on state land seems to us one of

the strongest arguments against the adoption of a leasing system in Alaska.

LIMITATION OF MINERAL ACREAGE

The last sentence in Section 2 provides in substance that on all lands disposed of by the state in the form of "homesteads or areas of lesser acreage" the state may sell or otherwise dispose of the mineral rights, but no one shall hold same in excess of a certain acreage, which is specified as "the acreage of one homestead."

While the Alaska placer location law now limits the acreage which can be acquired by location in any month, there is no limitation either in it or the Federal law on the amount of ground which can be owned and it is difficult to understand what justification there could be for a limit of that kind on mineral rights disposed of by the state.

Certainly no large scale hardrock or placer enterprise could exist on state lands with such an unrealistic limitation.

CONCLUSION

In view of the widespread criticism which has been expressed over the years regarding the red tape and delays experienced by those who have sought to obtain Federal land in Alaska, it appears that the purpose of the delegates to the Constitutional Convention and future legislatures should be to facilitate the transfer to private ownership of the lands acquired by the state and that with

respect to mineral resources the objective of the delegates to this Convention should be to make the constitutional provisions sufficiently flexible to fit in with any land or resource policy the Legislature may wish to follow. It should not contain restrictions which may prove inconsistent with the future welfare of the Territory in order to get Congressional support for a statehood bill which may be changed drastically before final passage. If Congress wishes to impose restrictions it can do so in the Enabling Act.

The ideas expressed herein can be effectuated by a few simple changes in Section 2, namely, the insertion of the words "or disposal" after the word "lease" and the omission of the last sentence commencing with the word "PROVIDED", and we urge that these changes be made.

We appreciate the opportunity of presenting our views on this important subject and trust that they will be helpful.

ALASKA MINERS ASSOCIATION

MINUTES OF RESOURCES COMMITTEE

November 22, 1955

All Members present.

Because of interest shown by other members in the appearance of Delegate Bartlett before the Committee, meeting held in Convention Hall.

A letter was read from John L. Buckley, Associate Professor of Wild Life Management indicating his availability to appear at a later date before the Committee.

Chairman Smith made introductory comment concerning subject matter sought to be discussed with Delegate Bartlett consisting principally of ascertaining the congressional background of passages in recent enabling bills concerning reservation to the states of mineral rights incident to federal land grants. Mr. Bartlett was specifically asked about the possibility of the Senate's adhering regidly to the Reservation concept of mineral rights, as expressed in recent enabling bills.

Mr. Boswell raised the question of duality of mineral disposition procedures in the event mineral rights were reserved to the State for disposition only through lease. He expressed concern that in a competitive position with Public Domain lands, State lands would be less attractive to mineral claimants.

Mr. Bartlett stated that earlier bills did not instruct the states as to the administration of subsurface lands; that in 1950 and 1951 thinking on the Senate side commenced to change,

that S50 of the 82nd Congress contained three limitations:

1. State could not dispose of more than 640 acres to any one person, firm or association.
2. State required to observe royalty provision of not more than 12½ percent.
3. Income derived to be covered into Public School fund.

Mr. Bartlett stated further: The first committee draft of the reservation concept provided for a fixed royalty rate which was later modified to set merely an upper limit, leaving to the State legislature establishment of a royalty scale within that top limit.

In the 83rd Congress, Mr. Bartlett stated, the bill reported out by the late Senator Butler provided that grants of mineral lands be made on the express condition they contain mineral reservation in the State, and be disposed of only by lease.

The measure which passed the Senate in 1954 contained substantially similar requirements as to reservation to the state of minerals and their disposition by lease.

The current bills are substantially similar except that the prohibition against the sale of more than 640 acres to any one purchaser has been removed. In this respect the proposed Tayia project was cited.

Reference was made by Mr. Bartlett to a memorandum from Herbert J. Slaughter of the Solicitor's Office, which memorandum was made available to the Committee and traces the history of

Congressional thinking on the point of reserving minerals, in Federal grants, to the State. The bills before the last Congress differed in one respect - namely, that concerning mineral reservations in the proposed 800,000 acre grant for Community Development purposes.

Mr. Slaughter's conclusions suggest that the 1927 Act confirming title of mineral bearing school sections evidenced for the first time a change in Congressional attitude which is reflected in turn in recent statehood enabling bills.

Mr. Stewart raised the question of the taxability of leasehold interests under the proposed State lease arrangement and indicated also that certain exemptions were granted lessees of Federal Coal Lands.

Mr. White inquired ~~of Mr. Bartlett~~ - "Could not the Constitution state that disposition of minerals be made by methods other than leasing, should the enabling act allow?" Mr. Bartlett replied that it could.

Questions were propounded by Delegates Ralph Rivers, Yule Kilcher, and Committee members touching on related subject matter. * Delegate Kilcher's questions brought out the provision in current enabling bills whereby a limited State preference right of selection would exist on restoration to public domain of lands in Federal reservations, subject, however, to priority of the Veteran's Preference Act of September 1944, as amended.

Mr. Bartlett's concluding references were to the effect that Mr. R. Rivers suggested that state lands administration be determined by the legislature subject to terms and restrictions of the enabling law.

the latest language contained in enabling bills did not prescribe rates of royalty; that the Senate feels it is being especially liberal as to proposed acreage grants as well as to any grant of minerals; that the Congress may well feel it is committed to the course followed elsewhere since 1927 which ~~must~~ may continue to be observed and which, therefore, accounts for the reservation language in present enabling acts.

Respectfully submitted,

Burke Riley, Secretary