

PREPARING THE WAY:
TOM STEWART'S RECOLLECTIONS
ON THE ALASKA STATE
CONSTITUTIONAL CONVENTION

ARRANGED BY THOMAS METZLOFF*

One of the most important figures in the successful effort for Alaska statehood was Tom Stewart. Born into an established Juneau family headed by Ben Stewart, founder of the Alaska Territorial Department of Mines, Tom was raised in Juneau. After earning his B.A. at the University of Washington, he attended Yale Law School. Following graduation, he clerked for United States District Court Judge George Folta in Juneau in 1951 and became a member of the Alaska Bar. After clerking, he served as Assistant Attorney General for Alaska from 1951 to 1954. He was then elected to the House of Representatives for the Alaska Territorial Legislature, and became closely involved in the efforts to pursue statehood while serving as the Secretary for the 1955 Alaska Constitutional Convention (the "Convention").

In 1992, Stewart drafted an article for the Alaska Law Review focusing on his recollections of the work he had done both before and during the Convention. This anecdotal article was intended to share Stewart's unique perspectives on what he thought were some of the significant elements of the constitution drafting process. For whatever reason, the article was not published at that time. In preparing for this symposium, Stewart's article was unearthed, and it seemed appropriate to publish it as part of this symposium issue.

Stewart's dedicated efforts to accomplish the drafting of a state constitution were motivated first and foremost by his desire for Alaska statehood. It was clear to him that Alaskans lacked the necessary authority to govern themselves under the existing territorial structure.

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There were many problems—indeed, Stewart stated that the problems were “too numerous to mention”—as the small territorial government attempted to manage and control the vast expanse of Alaska. Stewart was intimately familiar with prior efforts to pursue Alaska statehood.

Delegate Anthony J. Dimond introduced a statehood bill in 1943, but as with others before, it languished. The federally appointed governor of the Territory of Alaska (the “Territory”) at the time, Ernest Gruening, was an ardent advocate of statehood. Through the efforts of Gruening and of delegate Dimond’s successor, E. L. “Bob” Bartlett, the House of Representatives passed a bill for statehood in 1950 along with one for Hawaii, but both measures failed in the Senate.

This was the status of the movement when the Alaska Territorial Legislature in its 1949 session, and under the guidance of Governor Gruening, passed an act creating the Alaska Statehood Committee. This measure, Chapter 108 of The Session Laws of 1949, outlined preparatory steps to be taken by the Territory under the direction of the Statehood Committee, which in fact would be the steps used to launch the Constitutional Convention of 1955–56. At the time of the creation of the committee, hopes were high that Congress was about to act on granting statehood. The statement of purpose that was included in the act as its Section 1 is worthy of note:

Section 1, Statement of Purpose. In recognition of near attainment of statehood for Alaska and the responsibility that will devolve upon the people of Alaska in framing a fundamentally sound and workable state constitution embodying the best provisions that have evolved in the interest of better government in the several states, and in recognition of the many problems that will attend transition from territorial status to statehood, it is deemed necessary in the public interest to establish a committee, nongovernmental in character, to assemble applicable material, make studies and provide recommendations in a timely manner.

The act proceeded to create an eleven-member committee of a bipartisan nature and made the Delegate to Congress, his immediate predecessor, and the Governor of Alaska ex officio members. In Section 3, the powers and duties of the committee were established. These included engaging the services of a qualified person to do the necessary research, act as the executive to the committee, and represent it in carrying out its directives. The committee was to prepare, in readiness for a Constitutional Convention, fully detailed information and analyses for use by the Convention in preparing the required draft. In addition, the committee was to secure studies and analyses upon which the

Constitutional Convention might base recommendations to the first state legislature with respect to legislation necessary to implement initial operations of the new state and to obtain information and suggestions with respect to the best way of getting over the transition period prior to the convening of the first state legislature.

In fact, in the ensuing six years, until 1955, the committee under the leadership of Robert Atwood, publisher of the Anchorage Times and an active supporter of the statehood movement, devoted most of its energy to promoting statehood. As the movement for statehood faltered in those years, the committee's focus was primarily on the promotional effort rather than on the research and study included in its duties. Little useful material for the Convention was produced prior to the spring of 1955.

The political landscape was to change in the early 1950s. As Stewart recalls, the pivotal turning point was the election of 1954.

A fundamental part of the Convention story relates to the political climate both of the Territory and of the nation preceding the elections of 1954. In the nation, the era known as "McCarthyism" was coming to its peak in 1953. Its reflections reached out across the country and included the Territory of Alaska. The 1953 session of the Territorial Legislature was one of the poorest on record. In reflecting McCarthyism, that session created a legislative investigation committee to search for influence of communists in Alaska. None were found in the government, but it is said that one acknowledged communist was located in small community of Skagway. This individual was a longshoreman working on the docks there and openly professed his support of communist doctrine. No record of influence upon the government was located from this or any other quarter.

The governor of the Territory of Alaska at the time was federally appointed B. Frank Heintzleman, former regional forester for Alaska. Governor Heintzleman was not a supporter of statehood nor was the movement advocated by many members of the legislature. The leadership of the legislature was notoriously weak, and an event that marked the dismal record of that session was the disarray of the House of Representatives, whose members simply left and went home without formal adjournment, due in part to the drunkenness of its speaker and some members on the closing day of its session.

These factors are noted because they brought about a complete change in the political complexion of the legislature in the elections of 1954. It was in strong reaction to the failures noted that the electorate and their representatives turned powerfully toward a Constitutional

Convention and the hastening of statehood as the best self-help measure that could be made.

In the 1953 session of the Territorial Legislature, twenty of the members of the House were Republicans and four were Democrats. The measure and magnitude of the change is indicated by the election of twenty-one Democrats to the House in the election of October 1954, and only three Republicans. Where the Senate had been evenly split in 1953 with eight Republicans and eight Democrats, in 1954, the election brought twelve Democrats and four Republicans to the sixteen-member Senate.

The Democratic Party of Alaska had been rejuvenated among other things by a visit to Alaska in the summer of 1954 by its national leader, Adlai E. Stevenson. Stevenson spoke at a gathering of approximately 5000 people at the ballpark in Anchorage in July of that year and rallied the public widely to the statehood cause. It was in this political atmosphere that the steps toward drafting a constitution were at last concretely taken.

Almost immediately after the results of the election of October 12, 1954 were known, leaders of the Democratic Party in Alaska gathered at the home of its national committeemen in Fairbanks to organize plans for the 1955 session of the Territorial Legislature. One of the principal determinations was that an act calling a Constitutional Convention should be a primary concern of the forthcoming session. Assignment of newly elected members of the legislature to accomplish various tasks was made informally at this gathering.

Stewart was given the task of preparing legislation calling for the Constitutional Convention. In order to concentrate on the work to be done, he resigned his position as Assistant Attorney General for the Territory of Alaska. One of his first preparatory actions was to travel around the United States to talk with leading political scientists and other experts to get their views on how to organize and structure the upcoming Constitutional Convention.

This pilgrimage to learn about holding a convention and producing a good result led to recognized political scientists at Harvard, Yale, Columbia, Princeton, Northwestern, Chicago and other universities.¹ In

1. A partial list of people consulted on this trip is as follows: Professor John F. Sly, Princeton University, Department of Political Science; Professor William Miller, Princeton University, who had been an active consultant to the New Jersey Convention of 1947; Mrs. Marie H. Katzenbach, who served as Vice-Chairman of the 1947 New Jersey Convention (and mother of Nicholas Katzenbach, former U.S. Attorney General and Assistant Secretary of State); Judge Sidney Goldman, a prominent delegate to the 1947 New Jersey Convention; Luther Gulick, City

addition, key members of recent conventions such as those in New Jersey in 1947, were sought along with officers and staff members of the American Political Science Association, the Institute of Public Administration of New York, the National Municipal League, Public Administration Service in Chicago, the Institute for Judicial Administration in New York, the Legislative Reference Service of the Library of Congress, and other organizations.

Typical questions to these knowledgeable people included: Whether there was available a draft bill to call a convention to use as a model? What sort of research staff should be assembled in preparation for the Convention? Should that staff be set out and organized by an Alaskan leader or should contract services be established with an organization such as Public Administration Service to perform the needed pre-Convention research? What suggestions could be made about particular individuals to act as either pre-Convention research persons or as consultants to the actual Convention if the delegates desired to use them? What should be the place to hold the Convention, in the capital of Alaska or elsewhere? How much time should be allowed for the conduct of the business of the Convention? Should delegates be elected on a partisan or non-partisan basis? What other special steps should be taken towards the election of delegates? What should be the organization of committees and other structural aspects of the Convention?

After his "pilgrimage," Stewart prepared a report for the upcoming session of the Territorial legislature. His report included a compilation of laws that had been used in other states for the calling of their state constitutional conventions. The legislature's first act was to introduce House Bill 1 calling for the Convention. Both chambers created a Committee on Statehood and Federal Relations. Stewart was appointed Chair of the House Committee and then elected the Chair of the Joint Committee on Statehood and Federal Relations. An important initial issue was where to hold the Convention; several assumed that it would

Administrator of New York and former Director of the Institute of Public Administration; Charles McKinley, then-President of the American Political Science Association and Professor of Political Science at Reed College, Portland, Oregon; Ernest Griffith, Chief of the Legislative Reference Service at the Library of Congress; Charlton F. Chute, Director of the Institute for Public Administration in New York, who worked intimately on the preparation for the Missouri Constitutional Convention of 1944; Herbert Emmerich, Director of Public Administration Service in Chicago; Earl McGowan, Executive Assistant to Governor Adlai Stevenson of Illinois; Adlai E. Stevenson, former Governor of Illinois, with whom I spent substantial time discussing his experience as the responsible executive head of a large state; and the Honorable Charles E. Clark, Judge of the United States Court of Appeals for the Second Circuit, who had assisted in drafting the judicial provisions of the Constitution of Puerto Rico.

be in Juneau but the decision was made to have the Convention at the University of Alaska located outside Fairbanks.

This decision of the committee was intensely debated both in the committee and on the floor of the House when it was publicly proposed. The selection was made in response to information gained from leading delegates at the New Jersey Constitutional Convention of 1947. That successful convention had been held on the campus of Rutgers, the state university, rather than at the capital in Trenton.

In my discussions with a vice-president of the convention and a leading delegate, the desirability of that kind of setting for a constitutional convention was heavily stressed. In Juneau, that was a difficult decision to be made, since many of the local residents sought to have the Convention at the territorial capital in an effort to preserve its designation as the capital of the new state. The proposal drew strong opposition within the legislature but survived attempts to change it. Had the Convention been called by the legislation, then-pending in Congress, to enable statehood that year, it would have been held in Juneau rather than at the university campus. It is questionable whether the work of the delegates could have met the success it had if this had been its situs.

The site decision served not only to remove the process from entrenched lobbying interests regularly operating at the legislative headquarters, but it also served to aid in keeping the time and attention of delegates focused on their deliberations. The university campus was then approximately four miles from the business and social center of Fairbanks. Since the Convention was held in mid-winter, cold weather restricted travel ability enough that when delegates assembled at the campus in the morning, it was decidedly more comfortable to remain at the Convention hall in committee work or plenary sessions rather than to be attracted away by diverting interests during the day. Unquestionably this was a factor in bringing the delegates closer together in working cooperation and dedication of effort to their task.

In addition to the research and studies on the substance of the constitution, the pre-Convention work included making suitable arrangements for housing not only the Convention itself, but the delegates and others who would be participating. The University of Alaska and its president, Ernest Patty, had agreed to the use of a student union building just being completed in the early fall of 1955 as a site for the Convention. The building contained not only a room adequate for plenary sessions, but also numerous spaces for committee sessions as well as a cafeteria and other office space. This pre-Convention work included contacting hotels, apartment owners, and others for housing the delegates, making arrangements for transportation between Fairbanks

and the university campus, and contacting persons who might serve as clerical staff upon the call of the Convention. All of these were necessary steps to smooth not only the assemblage of the delegates initially, but also to serve them throughout the course of their deliberations.

Perhaps the most important issue was to determine how to select delegates. This required determining what election districts to use. In Stewart's view, it was critically important to have a wide range of representation from throughout Alaska and not have all the delegates just from the cities of Juneau, Anchorage, and Fairbanks.

In the legislature that enacted the bill, as had been the case for many years preceding, apportionment was by the four judicial divisions of the Territory. In that 1955 session of the legislature in the House of Representatives, four of the six members from the first division were from Juneau, one from Petersburg and one from Haines, who basically had been a resident of Juneau; there were none from Ketchikan, Sitka, Wrangell, or other communities. In the second division, two representatives were from Nome and one from Kotzebue. In the third division, all ten members of the House were from Anchorage and none from any other community of that area. In the fourth division, all five House members were from Fairbanks. This distribution of representation was fairly typical with respect to the legislatures up to that time. The committee determined that the formation of special election districts to assure much wider representation was critical to the success of a convention.

This element of the Convention must be contrasted with what would have occurred had the Convention been called under the auspices of the then pending federal legislation. The latter would have basically duplicated the representation for the legislature, with election of delegates at large in the respective four judicial divisions. When the committee proposal was offered on the floor of the House, there was substantial opposition and debate. Some members wished to retain the apportionment on which the legislature was based. Others sought a compromise that would have broadened the number of districts but at the same time allowed members from Anchorage, for example, to offer their candidacy in smaller remote districts, in effect constituting a "rotten borough" system.

Eventually a compromise was worked out that created twenty-two election districts. In order for the ballot distribution system and accounting of results to work effectively, existing recording districts were used as a base to describe the special election districts. Of the twenty-two election districts, four were the several judicial divisions at large and one

the entire Territory of Alaska at large. This latter district enabled the candidacy of widely respected public figures who were known throughout Alaska, such as some members of the Alaska Statehood Committee. The remaining districts consisted of one or more designated recording districts and an apportionment from one to as many as eight delegates was determined.

The legislature determined to have fifty-five delegates, a number selected in large part because it was the number of delegates at the United States Constitutional Convention in 1787. Stewart thought this was an appropriate number in order to achieve the important goal of having widespread representation among Alaskans.

It was a large enough number to allow reasonable representation from the smaller communities around the Territory without weighting the Convention against the interests of larger communities.

While thirty-one of the delegates came from Alaska's three major cities, Anchorage, Fairbanks and Juneau, the remaining twenty-four were divided among nineteen communities ranging from Kotzebue," of the northwest, to Ketchikan, of the southeast. Other places represented included Nenana, a city of about four hundred people on the Tanana River southwest of Fairbanks; Nome; Unalakleet, a native village on Norton Sound; Dillingham, fishing center for the Bristol Bay area; Kodiak, site of the first Russian settlement; Seward and Homer on the Kenai Peninsula; Valdez, seaport for central Alaska; Palmer, in the Matanuska Valley; and Sitka, long-time capital of Alaska. This not only brought to the Convention specific knowledge of the problems involved in tailoring government to all parts of an area more than twice as large as Texas, but also helped every member of the Convention develop a more comprehensive understanding of Alaska as a whole.

The geographic distribution of the delegates was matched by a wide variety of occupational experience. There were thirteen lawyers, nine store owners, four mining men, four fishing men, three housewives, two ministers, two pilots, two freighting operators, and two hotel men. Other occupations included news distributor, city planner, editor, architect, homesteader, real estate dealer, banker, publicity man, and photographer. Several of the delegates—including the president, William Egan, a storekeeper from Valdez—had served in one or both houses of the Territorial Legislature, while others had held other territorial or local offices. One of the vice-presidents, Frank Peratrovich of Klawock, was a Tlingit native who had previously been a territorial senator.

The net result of the districting scheme, while not fully in accord with the proportional representation subsequently mandated by the

United States Supreme Court, nevertheless provided the most representative body ever assembled in the history of Alaska. This was unquestionably a significant factor in attracting support for both the constitution and the statehood movement from people in smaller communities throughout Alaska. In contrast to the circumstances of the legislature, almost every community of significant size in the Territory had at least one delegate present at the Convention.

The election of delegates was designed to be non-partisan and delegates were nominated by petition. Petitions required at least five percent of the number of votes cast in the election district in the preceding general election of 1954. However, no petition was required to contain more than two hundred signatures, nor could it contain less than fifty. Persons nominated were required to accept the nomination and to certify qualification for the office. In the event a delegate should die, resign, or otherwise become disqualified from serving, the measure provided that the candidate receiving the next highest number of votes would fill the office. In the event of a tie, the matter would be resolved by the drawing of lots, with the loser to succeed if the winner should not take the office.

In planning for the Convention, the Territorial Legislature also needed to address funding issues.

At this time the Territory of Alaska was without substantial amounts of money, and the matter of an adequate budget for the Convention was critically debated. A key figure in this debate was Representative Ken C. Johnson from Anchorage, who was Chairman of the House Finance Committee, where the budget provisions originated. Basically, the Joint Committee on Statehood and Federal Relations prepared a detailed budget that estimated the Convention could be conducted for approximately \$300,000, of which not more than \$60,000 would be used to conduct the election of delegates. It was known that the Statehood Committee had upwards of \$80,000 remaining in its budget from prior appropriations that could be used for pre-Convention studies and other preparatory work contemplated to be done in the time interval before the convening of the session.

As the Territorial Legislature was ready to pass legislation calling for the holding of the Convention, Stewart was asked to lead the pre-planning preparations.

As a personal note, it may be observed that the Chairman of the House Finance Committee accepted the proposed budget with a tacit understanding for me to become the Executive Director of the Statehood

Committee and be responsible for supervision of the pre-Convention studies. This understanding was communicated to the Chairman of the Statehood Committee and its members and was in effect generally agreed upon, although not of record in the debates or other materials pertaining to the passage of the Convention enabling legislation. The bill was passed after settling differences between the House and the Senate concerning the special election districts and the apportionment of delegates that were resolved by a free conference committee process. The legislature received a message from the governor on March 19, 1955, that he had signed the bill. This action was significant given the fact that Governor B. Frank Heintzleman had not been a supporter of the statehood movement up to that time, but he apparently recognized that a growing majority of the people honored it.

With the legislative background paved, the Territorial Legislature adjourned in early April 1955 with seven months remaining before the Convention would convene. Stewart immediately began a search for national experts to serve as consultants to assist the delegates in a number of areas both substantive and procedural.

It had been the unanimous recommendation of those consulted about this work that we should identify prospective specialists and select them on the basis of our own screening of suitable applicants. Of critical concern in this respect had been that individuals be selected who understood the special relationship they would have with Alaskans in providing consultant services. Factors of personality and amenability had been considered to be important in this regard.

It was with increasing concern that a period of six weeks or more passed without receiving authorization from the Chairman of the Statehood Committee to proceed on this work, although my appointment as Executive Director of the Committee had already been made. In early June of 1955, a telegram came from Chairman Robert Atwood advising that John D. Corcoran, of Public Administration Service in Chicago, would be arriving in Juneau in a matter of a few days to commence the work. Although I viewed this decision with some measure of dismay, since the best advice had suggested not dealing with an established research organization of that kind, there was at this date no practical alternative. In retrospect, the decision of Mr. Atwood and the committee members was fully correct in the circumstances, and my apprehensions about the use of such an organization were wholly incorrect as shown by the work accomplished in the next five months.

The preparation work also included traveling within Alaska to meet with citizens to identify key concerns.

In addition to the overall budget of \$300,000 provided to the Convention, the legislature provided an additional \$75,000 for the Statehood Committee to accomplish its pre-Convention studies and preparatory work. With adequate funds available, the Public Administration Service research group was quickly assembled, including a staff of four consultants to assemble the data and write reports and other materials for Convention delegates and the public. Part of this effort involved traveling extensively throughout Alaska in order to learn from Alaskans and disseminate information to them about the work underway.

In these travels, discussions were held with candidates for election to the Convention, legislators, local government officials, school officials, and others concerned about the Convention and the subjects that would be discussed. By these means, the consultants were able to obtain a wide range of views on the operation of the territorial and local governments in Alaska and to relate these to the studies being prepared in a way to suit the desires and needs of Alaskans.

Stewart's team of consultants did important work in advance of the Convention.

The work of the consultants proceeded by the preparation of papers on major topics to be considered by the delegates at the Convention. As the papers were readied, many or most were mailed to elected delegates prior to the actual assembly of the Convention. The papers outlined the role of the state constitution within the American political system, provisions for civil rights and liberties, the organization of the three principal branches of government, suffrage and elections, local government, state finance, legislative apportionment, amendment and revision, and similar fundamental topics typically found in state constitutions.

At the same time as the detailed studies were in preparation, brief articles were written and distributed to newspapers throughout the state on the principal subjects for consideration in the new constitution. These did not urge or suggest any particular constitutional provisions or philosophy. They were simply to enable the public at large to understand better the work to be undertaken by the delegates. The major papers were assembled into a three-volume set of constitutional studies which were provided to the delegates upon the gathering of the Convention. The articles discussed not only detailed analyses pertinent to special circumstances in Alaska, but also brought up philosophical issues and

constitutional trends and ideas on how well particular types of provisions had worked in other jurisdictions or had failed the needs of a state.

In addition to the articles by the staff consultants that were sent to newspapers, guest articles were written by leading constitutional figures from outside the state. These were assembled in a tabloid type newspaper supplement, and 50,000 copies were distributed by major newspapers throughout the Territory just prior to the Convention. This was intended to increase understanding by the reading public of the work the delegates would be performing and to lay a foundation for ratification of the proposed state constitution. In addition to the printed materials, the consultants and the executive director gave speeches before civic groups in many communities throughout Alaska and were able to answer questions of local people about the nature of the work to be performed.

In particular, Stewart consulted with a number of people who had been involved in the 1950 Hawaii State Constitutional Convention.

It was known that leading members and officers of the Hawaii State Constitutional Convention of 1950 had met following its deliberations and had prepared a critique of the work of that convention. Upon the advice of Public Administration Service Director John Corcoran, the Statehood Committee authorized me to travel to Hawaii and meet with their Statehood Commission members, as well as those involved in the conduct of their convention, to obtain ideas that might avoid mistakes encountered in the Hawaiian work. One of the most significant factors learned from this contact was a necessity of creating a committee structure that would reflect only fundamental elements of a state constitution; it should not include committees that would be more inclined to deal with statutory, rather than constitutional, subject matter.

On return from the Hawaiian study, my route included going to Boulder, Colorado, for the annual meeting of the American Political Science Association in order to make the acquaintance of leading political scientists and other specialists who might become available to act as consultants at the Alaska Convention. From these contacts a list was made of prominent individuals who might be able to come to Alaska during the winter of 1955, if requested by the delegates, to consult with committees drafting specific portions of the state constitution.

As the opening of the Convention neared, Stewart focused on the specific procedures for running the Convention including how best to structure the work of the delegates.

A few days prior to the opening of the Convention on November 8, 1955, John Corcoran travelled with me to Fairbanks to complete final preparations. Corcoran noted the desirability of providing delegates with a proposed set of rules of procedure for the operation of the Convention and for its organization. In the next two or three days, he single-handedly undertook the task of preparing a draft set of rules, an outline for a committee structure, and other essential details. This work also included the preparation of a dozen or more introductory motions that might be used by the delegates in speeding the organization of the body into a working unit. The respect already accorded to the substantive studies by the research group made these additional steps readily accepted by the assembled delegates with relatively few changes. These proposals were quickly acted upon and adopted, and the Convention was organized into a working whole within a few days of its commencement. Without these steps, a slow and floundering beginning may well have occurred.

The matter of committee size and structure was of great significance. There were eleven substantive committees created, each with seven members, except for the committee on ordinances and transitional measures, which had nine members. In addition, there were three committees not dealing with substantive elements of the constitution, each having nine members. One of these was for rules, one for administration of the Convention, and one on style and drafting. The committee on style and drafting was an especially important one during the closing days of the Convention, in order to arrive at relatively clear and uniform styling of language throughout the document.

In addition to the designated committees, there was in effect a steering committee composed simply of the chairmen of the named standing committees together with the president of the Convention. Especially in the latter days of the assemblage, this group met with some frequency in order to coordinate the activities of the substantive committees and to arrive at the consolidated work which was the proposed constitution.

The consultants that Stewart had assembled played an important role in the Convention.

Initially there was reluctance among some delegates, who felt that consultants might be unnecessary and might interfere with the thinking of the delegates. An interesting anecdote in this connection concerned the committee on the judiciary, whose chairman was a prominent Anchorage lawyer. He had come to the Convention with a proposed draft for an article on the judiciary and felt that no outside advice was necessary.

The committee on the judiciary was split and undecided on whether to use the services of the consultant who had been designated for their work. This was Sheldon Elliott, Director of the Institute for Judicial Administration and one of the prime authors of a leading text on modern judicial administration. A member of the committee who had some formal legal training and experience came to me and asked for my views on the utility of engaging the consultant. My response was that if they were willing to read printed material on the subject, perhaps having the author present his views might be helpful. He agreed, and a majority of the committee voted to invite Sheldon Elliott to assist their work.

Upon his arrival, it was arranged for the committee chairman to be present at the airport and to meet with him privately without any suggestion of interference by my presence. The two almost immediately became fast and admiring friends, and the work of the consultant was highly useful to the committee in its subsequent deliberations. This established a pattern for other committees, and in fact ten consultants, including two Alaskans, were employed from two to five weeks prior to the Convention mid-session recess.² One of these was present throughout the Convention to provide specific assistance to the administrative staff in the organization of records and maintaining the paperwork of the sessions. Two others remained during the final month of the Convention and were of specific assistance in the style and drafting phase of the work as well as on substantive elements.

Many of these specialists were knowledgeable about differing fields and served more than one committee with their advice about practices in

2. Consultants working with the Convention and its committees included the following:

- 1.) Ernest R. Bartley, professor at the University of Florida and author of *Principles and Problems of State and Local Government*, Oxford University Press, 1958 (with John M. Swarthout);
- 2.) Dayton D. McKean, professor at the University of Colorado, who worked with the committee on the legislative article;
- 3.) Vincent Ostrom, professor at the University of Oregon, who worked with the committee on the natural resources article;
- 4.) Weldon Cooper, professor at the University of Virginia, who worked with the committee on the local government article;
- 5.) Sheldon Elliott, Director of the Institute for Judicial Administration in New York, who worked with the committee on the judiciary article;
- 6.) Kimbrough Owen, professor at Louisiana State University, who worked with the Committee on Style and Drafting, as well as more generally;
- 7.) John E. Bebout, from the National Municipal League, who worked with the committee on the local government article and more generally; and
- 8.) Emil J. Sady, from the Brookings Institution, who worked with the Secretary of the Convention on administration and organization of records.

Note: The latter three consultants remained throughout most of the Convention and provided significant assistance in many substantive areas.

other states and on what might work or would cause problems. These advisors well understood their role and generally avoided expressing personal views about what should or should not be in the constitution. Before adjournment of the Convention, the three remaining consultants offered to the committee chairmen through the president some recommendations which they felt should be considered. In general, however, these were rejected since the issues had been quite thoroughly debated in preceding plenary sessions.

Stewart recognized that the delegates were making history and that it would be important to document as much of the work that was being done as possible.

A stenotype record and tapes were made of all plenary sessions of the Convention. Eventually these were transcribed, providing a complete and relatively accurate record of the debates in the Convention as a whole. However, the several committees did not keep such records, and there is no detailed recording concerning the committee decisions on the respective articles considered by them. Subsequent interpretation and understanding of the intent of the framers has suffered as a result of this lack of record keeping. But the verbatim transcripts of the plenary sessions have been of substantial use, not only for students of the constitution, but by the courts in their study of the meaning to be given to the language of the document.

Stewart ensured that special care was taken for the formal signing of the new Alaska Constitution.

It is interesting to note the manner in which the final draft of the constitution was assembled and signed by the framers. The Committee on Style and Drafting worked with galley proofs printed each evening by the local Fairbanks daily newspaper, which had the most complete printing facilities available. The committee, after action on proposed style and drafting changes, would mark up the galley proofs, which would be taken by the secretary of the Convention to the printers for a new run the following day. It was from these galley proofs that the final copy of the constitution was made.

This final version was printed on a form of parchment paper in one hundred copies. Sixty blank sheets of that paper were reserved for the signatures of the delegates. On the day preceding the formal signing ceremony, these sheets were laid out on long tables and the delegates lined up alphabetically to take their turn at signing all sixty pages. After this was done, five of the pages with signatures having the least problems,

such as smudges or slips of a pen, were selected for transmission with the entire document to the President, Congress, the Governor of Alaska, the Secretary of Alaska, and the University of Alaska, and the other fifty-five were reserved for personal retention by each of the delegates. The best signature page was duplicated by photocopy methods in forty numbered editions, and the remaining forty copies of the printed document were thereafter distributed to public libraries, schools, and otherwise as provided by the direction of the Convention.

Subsequent to adjournment, a work was commissioned to the retired chief calligrapher of the United States government to render the entire document in fine calligraphy on a genuine sheepskin parchment. The delegates had also signed a sheet of this parchment. This project was done at a cost of approximately \$10,000, and that document, although never viewed by the delegates as a whole, is enshrined in the Alaska State Museum as a historic work.

Stewart was intensely proud of the constitution that the delegates drafted.

The document has been acclaimed by students of national repute as one of the best among those of the fifty states. It is relatively simple, short, flexible, and deals with fundamental material basic to the structure of the government, as well as with protected rights of citizens. Most of the articles are in somewhat traditional form but two are substantially unique. One is Article VIII dealing with natural resources. The committee on this topic had no guidelines from other state constitutions, and basically what evolved was an ideological but practical expression of the committee members, who had years of cumulative experience in various aspects of the use and administration of natural resources. It is protective of the public interest and the natural wealth of the lands and waters.

The other unique provision is Article X, on local government. The committee members here sought to avoid the anachronisms and multiple problems of complex local government structures as found in virtually all of the other states. In its basic provision, it seeks to provide for the minimum of local government units within a local area and for maximum local government autonomy and governmental authority. In other words, it sought to avoid multiple overlapping jurisdictions in any given local area, which plagues the operation of local governments throughout much of the nation.

Once completed, the draft constitution needed to be submitted to Alaska voters for approval. Approval was far from a foregone conclusion.

The act made provision for the Convention to submit the proposed constitution to the people of Alaska for ratification or rejection at an election to be held at a date fixed by the Convention, not less than 40 nor more than 120 days from the date of its adjournment. It should be noted that statehood opponents had until this time been arguing that there was not a current vote by the people of Alaska on whether they wished to have statehood. The framers of the act believed that a vote on ratification of the constitution would be tantamount to a new referendum on statehood, since it could be assumed that opponents of statehood might vote to reject a measure leading to that objective.

It may be noted here that the opposition to statehood came most vigorously from the absentee-owned Alaska canned salmon industry and from the mining industry. Both groups were concerned about the likelihood of increased tax burdens if statehood was realized. The salmon industry also knew that their fish traps would be outlawed if Alaska gained control of its fisheries from the federal government. The industry had long maintained a strong and effective lobby in Washington, D.C., both to influence Congress and federal regulatory agencies to protect its interests. In addition to these opponents, an appreciable number of citizens who might philosophically favor statehood were concerned that Alaska did not have a sufficiently developed economic base nor a large enough population to support the self-government that statehood would bring.

The legislative act establishing the Convention included a grant of power to the delegates to submit "ordinances"—essentially referendums—to the voters. Stewart recalls that this power was utilized to submit additional questions to voters that were designed to promote the statehood cause.

It came about through the single-handed efforts of a New Orleans, Louisiana, businessman named George H. Lehleitner. Mr. Lehleitner had been an advocate of statehood for Hawaii since his service in that territory in the Navy in World War II. In researching the history of the admission of territories, he discovered that the nine most recent states admitted had elected a provisional congressional delegation, including senators and congressmen, prior to action by Congress enabling statehood. He was successful in persuading the leadership of the Alaska Convention to adopt this plan, and accordingly Ordinance Number 2 was adopted.

Action by the voters on these ordinances constituted in effect a clear referendum on the desire of the voters for statehood. It was implicit that opponents of statehood would not favor such an idea, but in addition some in favor of statehood also thought it to be an unwise step to achieve

the statehood goal. When the vote on ratification of the constitution and on the ordinances was taken in April of 1956, 15,011 favored the ordinance and 9,556 were opposed, thus clearly demonstrating the large majority of Alaskan voters favoring statehood as soon as possible.

Ordinance Number 3 provided for abolition of fish traps. The traps were a symbol of absentee ownership in the fishing industry and were very much opposed by individual fishermen of Alaska. The inclusion of this ordinance was clearly an effort to attract voters who could be counted upon to favor it and at the same time to ratify the other two ordinances. The ordinance, of course, would have no effect until the achievement of statehood, but it served as a vehicle to persuade favorable votes at the ratification election.

With the new constitution approved, the stage was set for Alaska to be granted statehood a few years later. Alaskans owe a great debt of gratitude to Tom Stewart for his dedicated commitment to the drafting of the Alaska Constitution.