

**ALASKA CONSTITUTIONAL CONVENTION**

January 20, 1956

FIFTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We are happy to have Reverend John Stokes of the University Community Presbyterian Church with us this morning. Reverend Stokes will give our daily invocation.

REVEREND STOKES: Let us all pray. Almighty God, we are grateful unto You for this new day and the opportunities which You give us to fulfill the task to which we have been called. Give these delegates hope, wisdom, faith, and love, that the document they produce may give equality to all men, freedom and responsibility in the law of the new state and under Thy grace. In the name of Jesus Christ our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Six absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: If there is no objection, could we hold the report until later in the day?

PRESIDENT EGAN: If there is no objection the report will be held in abeyance until later in the day. Are there any petitions, memorials or communications from outside of the Convention? Are there reports of standing committees? Reports of select committees? Are there any motions or resolutions? If not, is there any unfinished business to come before the Convention at this time? Mr. Davis.

DAVIS: Mr. Chairman, I would like to report, or introduce a committee proposal, if they have been distributed, on Style and Drafting for further consideration by the Convention.

PRESIDENT EGAN: If there is no objection we will revert to the introduction of committee reports, that is the Style and Drafting Committee's report on Committee Proposal No. 15.

MCLAUGHLIN: No. This is Committee Proposal No. 15 by Style and Drafting concerning miscellaneous articles.

PRESIDENT EGAN: Would the Chief Clerk read Committee Proposal No. 15 for the first time.

CHIEF CLERK: "Committee Proposal No. 15. GENERAL AND MISCELLANEOUS PROVISIONS." I think we probably ought to read the report.

PRESIDENT EGAN: Do you want to read the letter?

CHIEF CLERK: "Your Committee on Style and Drafting submits herewith a proposal for consideration by the Convention. The proposal covers the subjects which the committee chairmen asked this Committee to consider. It would be appropriate for the Convention to consider this proposal in conjunction with Committee Proposal No. 12 on 'General and Miscellaneous Provisions'."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. We have before us Committee Proposal No. 6/a, in the amendment stage. Do we have any committee amendments before us as this time, proposed committee amendments? Mr. Rosswog.

ROSSWOG: Mr. Chairman, we passed by Section 5 in going through this the first time, and at this time we have an amendment to Section 5 that we would like to propose.

PRESIDENT EGAN: Do you move the adoption of the proposed committee amendment, Mr. Rosswog?

ROSSWOG: Yes, I will. I think it should be read first.

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

CHIEF CLERK: "Strike Section 5 and substitute the following: 'Section 5. The governing body of the organized borough shall be the assembly. The composition of the assembly shall be established in accordance with law or charter provided that each city of the first class and each city of any other class designated by law shall be represented by one or more persons who shall be members of the city council and that the additional members of the assembly shall be elected from and by the qualified voters living outside such cities.'"

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to move and ask unanimous consent that this change be made.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the proposed committee amendment be adopted. Is there objection? Mr. Hurley.

HURLEY: I object temporarily.

PRESIDENT EGAN: Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The subject is open for discussion. Is there discussion on the proposed committee amendment? Mr. Hurley.

HURLEY: Mr. President, this amendment just came before me some 30 seconds ago. I have been concerned with this particular section as I think a great many other people have. I think the amendment offers a very substantial improvement over the original as far as indicating a composition of the borough assembly. The thought has occurred to me, and I have expressed it to other people, that it might be desirable in setting up these local governments, or establishing for the people in an area, in establishing their local government, to provide for some other method of electing their representatives based upon the particular problems in the area involved. As I say, it is very difficult for me to argue this thing very sensibly because of the short time in which I have had to look this thing over. I have prepared an amended article myself, and the more I look the two over they say practically the same thing. Now, may I ask a question, if this amendment now is adopted, does it then preclude any amendments to Section 5, or the second time around do we have a chance to amend this Section 5?

PRESIDENT EGAN: That is correct. It could be amended again.

HURLEY: I withdraw my objection then.

PRESIDENT EGAN: Is there objection to the adoption of the proposed committee amendment? Mr. McLaughlin.

MCLAUGHLIN: May I inquire of the Chairman of the Committee when they say "qualified voters living outside such cities", does he intend that living outside would be the rough equivalent of residency?

ROSSWOG: Yes. That would be the intention, that it would be the residents outside of the cities that would be able to represent their representatives on the assembly.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I would like to ask the Committee a question. Is it possible under Section 5 that the city council complete would also be complete in the assembly? Is it quite possible?

V. FISCHER: I think that would be possible only if the borough was the same size as the city, or if the legislature provided that the people outside of the city shall have no representation.

GRAY: It could be so?

V. FISCHER: I could not imagine it happening.

GRAY: I could imagine where you have, we'll say, 95 or 99 per cent of your people within the city limits and with a large land area, unpopulated land area around the city -- you know, a very, very small fringe. In a case like that would you conceive that the city council would also be the borough assembly, identical?

V. FISCHER: I guess in a case like that it would have to be, if there is such a situation where no one lived outside of the limits of the city.

DAVIS: Mr. President, may I ask a question?

PRESIDENT EGAN: You may ask your question, Mr. Davis.

DAVIS: I am wondering why the Committee put the word "from" in the next to the last line. The reason for the question is that it appears to me that while it might be proper that the folks outside the city have the vote that they might very well want to elect somebody on the assembly who actually lived in the city.

LONDBORG: That was just the intent of the Committee, to preclude that possibility, because the representative of the people outside of the city should be one of their own and also elected by the residents of the city. There was quite a bit of discussion on that yesterday and objections were raised to the original writing. In other words, it would say that the qualified voters outside the city might vote on this for those in the city and this was to draw the dividing line so that they would have their own representatives elected from, among, and by the qualified voters living outside such cities.

PRESIDENT EGAN: Are there other questions? Mr. Johnson.

JOHNSON: Mr. President, would it be possible to set up the election machinery on such a basis that the borough would elect, instead of throughout the borough as a whole, would elect from districts in the borough? Is that what you have in mind?

V. FISCHER: That was our general intent, that those elected outside of the city would probably be apportioned according to some method of districting, especially if you have a lot of individual communities out in the outlying areas.

HELLENTHAL: Question.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor

of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other committee amendments to be proposed? Mr. Rosswog.

ROSSWOG: There are two other committee amendments.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed committee amendments.

CHIEF CLERK: "Section 7, page 3, line 13, change 'a maximum' to read 'the greatest possible measure'.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would move and ask unanimous consent that this amendment be made. The reason is to explain the meaning of the word "maximum" or to make it clear.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Are there other committee amendments?

CHIEF CLERK: Yes. Section 8.

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

CHIEF CLERK: "Page 3, line 16, change the word 'standards' to the word 'provisions'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: This is also a committee amendment and I would propose and ask unanimous consent that it be adopted.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that this proposed amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Are there other amendments?

CHIEF CLERK: No more committee amendments here.

PRESIDENT EGAN: If not, then we will proceed with the second time around on amendments to Committee Proposal No. 6/a.

ROSSWOG: Mr. Chairman, I wonder if we may have a two-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Convention will revert to reading of communications at this time.

(The Chief Clerk read telegrams from Vernon Haik, President, Isaak Walton League of America, Anchorage; Luther Dillon, Anchorage; Tom Moore, President, Alaska Guides Association, Anchorage; A. W. Boddy, President, Alaska Sportsmen Council; and Wm. L. Paul, Grand Master, Alaska Native Brotherhood, asking the Convention to reconsider the action taken on the resources article in not providing for separate commission plan for management of wildlife and commercial fisheries.)

CHIEF CLERK: Telegram from Delegate E. L. Bartlett:

"William A. Egan, President

Constitutional Convention

College, Alaska

Following message from me is based upon many and repeated requests I make public my position regarding Tennessee Plan and I transmit it to you because it is my understanding Constitution Convention is giving consideration to Plan:

"Many times during the last several months I have been asked to give an opinion as to whether Alaska should adopt the so-called Tennessee Plan in an effort to promote the cause of statehood.

"My reluctance to state that opinion until this time has been based upon a number of reasons. Chiefly, perhaps, I desired to make at least a preliminary estimate of statehood attitude in the Second Session of the 84th Congress in conjunction with the President's 1956 State of the Union message.

"Further, I wanted additional time to make a reasonable evaluation of the Tennessee Plan's chances of success in the mid-20th century, remembering that many, many years have gone by since it was last used. Whether or not it can be translated to these times with equal effectiveness is, of course, that which only the future will definitely disclose.

"A more positive statement can be made as to the probabilities of attaining statehood now by the traditional approaches. Those prospects are bleak. No hopeful sign has presented itself from any source since this session of Congress began earlier in the month and he would be an optimist indeed who would predict favorable action soon.

"So the cause of statehood is not advancing now. Indeed, there are those who suggest that interest is tending to decrease rather than increase and that unless a stimulating factor is added Alaskans may have to wait long before coming into the day when statehood is attained.

"The Tennessee Plan could provide that stimulating factor; its impact could jar the nation and the Congress from lethargy. The election and sending to Washington of two United States senators and a representative in the house might provide the fulcrum needed to jar statehood from dead center, or to use another metaphor, might be the instrument to remove the key log creating the jam.

"After talking with many members of Congress, after making a very careful analysis of the situation in general, I am convinced that if Alaska were to adopt the Tennessee Plan practically all statehood supporters in Washington would welcome this active demonstration of Alaska's determination to win a rightful place in the union of states; and whatever resentment at this bold, but certainly not unique, approach which might be felt, or expressed, would be far more than outweighed by the benefits.

"In summation, I am bound in candor to state that without the Tennessee Plan a combination of circumstances, not at this time to be readily foreseen, will be needed to bring statehood soon.

"If the Tennessee Plan is adopted it might well shorten the long road to statehood. I can see distinct possibility of gain; I see only remote possibilities of loss.

"The Tennessee Plan has elements of the daring and the imaginative attractive to the people of a frontier land as has been made apparent to me by the many expressions of support from Alaskans for the proposal.

"It is my understanding that the Tennessee Plan is before the Constitutional Convention now in session at the University of Alaska. If adopted there, it will be presented to Alaska voters for final determination in April. As one who through the years has had an abiding conviction that statehood more than any other one thing is essential for Alaska for its own sake and for the sake of the nation, I am bound to support any just and reasonable and American way to hasten statehood's coming. The Tennessee Plan is such a way.

"With the above statement of my own position, I desire to add that if the Constitutional Convention and the voters in April decide to try the Tennessee Plan, it will have my continuing support."

Signed/ E. L. Bartlett

(Applause)

SUNDBORG: Mr. President, I move and ask unanimous consent that the communication from Delegate Bartlett be spread upon our journal.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the communication be spread upon the journal. Is there objection? Hearing no objection it is so ordered. The communication will be referred to the Committee on Ordinances. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: If not, we will proceed with the second reading of Committee Proposal No. 6/a, Section 1. Are there amendments to Section 1? Mr. Hellenthal.

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called "Dillon's Rule", or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Is there not other language, clear language, in your article which upsets the normal rule applicable to municipalities, that they are creatures of delegated power and which clearly and unambiguously changes the traditional rule? Is there not?

V. FISCHER: I don't think I could give an unequivocal "yes" or "no" on that. I think there are provisions in here, that if strictly interpreted, not only strictly but restrictively interpreted, could defeat the purposes.

HELLENTHAL: Is that not true of any other article of the constitution?

V. FISCHER: Yes, except that this rule has generally been applied, I think exclusively, to powers of local government units.

HELLENTHAL: In your opinion does it not weaken the balance of the constitution to make this provision with regard to this article only?



V. FISCHER: That I could not say. I am sure that the Committee would not object to having this provision pulled out of this particular article and made generally applicable to the constitution, provided that the article itself was not weakened by it.

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home rule cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home rule authority by the legislature and it may not want to adopt a home rule charter.

HELLENTHAL: Thank you. In accord with Mr. Fischer's suggestion then I move that this sentence of Section 1 be transferred for consideration in connection with, I think it is Proposal 12 that was read for the first time this morning, or 14.

CHIEF CLERK: Fifteen.

HELLENTHAL: And considered with the miscellaneous provisions. I ask unanimous consent.

METCALF: I object.

PRESIDENT EGAN: Objection is heard. Do you so move?

HELLENTHAL: I so move.

PRESIDENT EGAN: Mr. Hellenenthal so moves. Is there a second to the motion?

H. FISCHER: I second it.

PRESIDENT EGAN: Mrs. Fischer seconded the motion. Now, the motion was, Mr. Hellenenthal, that the sentence --

HELLENTHAL: That the last sentence of Section 1 be transferred.

PRESIDENT EGAN: Is there discussion? Mr. Hurley.

HURLEY: Mr. President, I certainly don't qualify as a constitutional lawyer, but it occurs to me that there may be a difference between the various proposals that we come out with here. I have in mind particularly the proposal on resources in which I recall a statement which I recognize was after it was somewhat amended, that it was the intent of the Committee that this particular section be narrowly construed. I don't know how many other sections of this constitution are going to have the same idea behind it. I certainly would have no objection to the inclusion of this particular sentence as a miscellaneous

provision if all of the committees were satisfied that this particular statement should apply to their proposals, but I simply raise the possibility that that might not be true. I think it very definitely is true in this matter of local government because they have been extremely vague, pardon the expression, as to how these things are going to be carried out; and I think it is essential that the legislature and the courts that may be confronted with the problem do construe it liberally so as to effectuate a good strong home rule local type of local government. So I am not sure in my own mind, if the matter comes to a vote now I probably would vote against it on the grounds that it should be given consideration as it applies to each article rather than at this time be placed in the miscellaneous section.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I made this motion because I think we are weakening our entire constitution by including this provision in this article, without giving careful and long thought to the entire constitution. Now, if this Committee, and when we focus our minds on the one problem and the whole constitution, if we decide that this should remain in this article it can be put back, and that is the way it should be considered. This should be considered in the light of the entire constitution. Now, I say it weakens the constitution. If we leave this this way, it means that we may have intended that the remaining portions of the constitution be strictly construed but that this one be liberally construed. Frankly, as a lawyer, and I am speaking of a highly complicated and technical legal point here, as a lawyer I don't think this is necessary in this article. This article, as Mr. Rosswog said in his opening remarks, is simple, flexible, and it fits the Territory. It is a framework -- this is a beautiful article because it is a framework -- you can drive trucks in and out of this framework but it is a framework in the true constitutional sense. All right, if it is a framework, there is no question of construction. Now, if this were legislation, then the sentence might belong in the article because the problem is one of legislation. You either construe legislation strictly or liberally. These words apply to legislation, they do not apply to framework language. They are not necessary; they are going to weaken the rest of our constitution. That is my main point. Now, frankly, when the question comes of whether such a rule should be included as to the whole constitution, I certainly have some definite opinions on that, but at this same time, this does not belong here.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I don't feel I would be ready to vote to move it to the general provision article because, as Mr. Hurley said, we would have to consider how it would affect each

and every proposal that has been submitted and passed through on the floor thus far. I mentioned yesterday that this particular proposal on local government is almost equal to a separate constitution for local government units throughout the state. In that way I think you can see that the local government proposal is unique in that sense. The other articles are statewide in concern. For instance, the executive, the legislative, judicial, etc. -- this one is the article that is going to set aside certain areas in their various patterns of local government. You might say it is the same as writing little constitutions for each one instead of giving them complete independence as little unions within the state; we are setting up the pattern of local government throughout the state, and I think that with that in mind you can see that there could be an exception to this particular proposal having a clause in there such as this and that this interpretation be for this proposal and not necessarily affect the rest of the constitution or the rest of the proposals.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am inclined to agree with the Committee. I think that if this type of clause is left in the constitution at all, it might better be left with reference to a specific article rather than as a general provision applying to the whole constitution because this matter of construing delegated powers was settled many, many years ago by Chief Justice Marshall of the United States Supreme Court in a case that is now famous, to all law school students anyway, known as *McCulloch v. Maryland*, in which the court at that time said that any delegation of power must be construed in the manner most beneficial to the people and that principle, so far as I know, has never been changed, and that line of reasoning has been followed ever since. So any inclusion of a clause of this kind, to me at least, is not necessary and if we are going to leave it anywhere, I think it is better to leave it where it is rather than putting it in the general provisions.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I go along with Mr. Johnson's statement that the courts have already established the basis for construction of constitutional matter; and I go along with Mr. Hellenthal when I say that this is a declaration of purpose and to have a liberal or strict interpretation of a declaration of purpose is absolutely out of place. I wouldn't want it in the entire constitution because that would throw the complete approach and all the established law with regard to interpreting constitutions. It will do less harm here than it would in a general clause pertaining to the entire constitution. But it shouldn't even be here.

PRESIDENT EGAN: Miss Awes.

AWES: I frankly would not know how to vote on this motion. Mr. Hellenthal moved that this be transferred to the general section, so that if we vote either "yes" or "no" we are voting on whether it belongs here or someplace else. I agree with Mr. Rivers that it doesn't belong in the constitution at all, and I think Mr. Hellenthal's whole argument went to that, that it doesn't belong in the constitution and I wonder if he would agree to amend his motion to have it stricken rather than to have it moved.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I certainly would because I feel it does not belong in the constitution at all. Maybe I was trying to be too tactful or something, but frankly it doesn't belong there, and I will so amend my motion.

PRESIDENT EGAN: Is there objection to Mr. Hellenthal's request? Is that what you are asking, Mr. Hellenthal?

HELLENTHAL: Yes, my motion be to delete the sentence; "deleted" is a much more tactful word.

PRESIDENT EGAN: The motion is then that the last sentence in Section 1 be deleted from the section. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: Actually it is a new amendment.

NORDALE: Does that mean it is to be stricken forever from the whole constitution? Is that the whole idea now?

HELLENTHAL: I wouldn't think so. If good reasons existed for it being in the miscellaneous provisions it could certainly be inserted there by amendment when we consider the miscellaneous provisions.

NORDALE: But could now never come back to this article?

HELLENTHAL: It could if the miscellaneous provisions read that all provisions of this constitution shall be construed as worded except the article on local government; then Style and Drafting could put it right back here.

PRESIDENT EGAN: Mr. Hellenthal, did you ask for unanimous consent to withdraw your original amendment?

HELLENTHAL: I do.

PRESIDENT EGAN: Unanimous consent is asked that the original amendment be withdrawn.

HELLENTHAL: I move that the last sentence of Section 1 of

Committee Proposal 6/a be deleted.

AWES: I second the motion.

PRESIDENT EGAN: Miss Awes seconds the motion. Mr. Taylor.

TAYLOR: Mr. President, I believe that that sentence should not be in the constitution. The Committee has brought forth an article which I think is very plain and concise and would not be difficult of construction either by the legislature or by the courts. And the reason that this would be dangerous is the fact that if it is left in here and there were 60 persons in the legislature of the state, you would have 60 opinions as to what would be liberal construction if there was a law drawn to implement this particular article. That statement is so broad that I don't believe that an agreement could be reached as to what was a liberal construction. Now, in the case of McCulloch v. Maryland, the courts have set -- that was a long time ago -- what their duties were in regard to the constitutional provision or a law enacted by any legislature or by Congress, that in the construction of that law why the reasonable evidence should always be as to what is the greatest beneficial effect. Now, regardless of whether that is written in here, it still is the law. That law of McCulloch v. Maryland has never been abandoned by the courts and if it ever becomes necessary for construction of any act that is apt to be passed by the legislature regarding this particular article, they would use that construction which is obligatory upon the courts as it is the law of the land and established by a precedence of the Supreme Court of the United States. As I say, the difficulty of saying what is a liberal construction would be a nullity, I think. Leaving it in there is practically a nullity. If you are going to construe one article of the constitution liberally, you have got to construe them all liberally and I don't believe they should be construed liberally, I think they should be construed strictly according to the wishes of this constitution, this Constitutional Convention.

PRESIDENT EGAN: The question is, and the Chair would like to ask at this time that all delegates express themselves when voice votes are called for. Mr. Rosswog.

ROSSWOG: Mr. Chairman, before we take a vote on this, I think I should say that the feeling of the Committee was that this particular article should be given a liberal construction. Of course, I don't know the legal aspects of it altogether, but we did feel that a lot of work would have to be done to implement this section and that we did not want it too strictly applied exactly, the words that we are using.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?"

ROSSWOG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 25 - Awes, Barr, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Knight, McNealy, Marston, Nerland, Poulsen, Riley, R. Rivers, Stewart, Sundborg, Taylor, VanderLeest, Wien, Mr. President.

Nays: 26 - Armstrong, Boswell, Collins, Cooper, V. Fischer, Harris, Hurley, Johnson, Kilcher, King, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nolan, Nordale, Peratrovich, Reader, V. Rivers, Rosswog, Smith, Sweeney, Walsh.

Absent: 4 - Buckalew, Coghill, Robertson, White.)

CHIEF CLERK: 25 yeas, 26, nays and 4 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to be proposed for Section 1? If not, are there amendments for Section 2? Mr. Johnson.

JOHNSON: Mr. President, I have an amendment.

PRESIDENT EGAN: Mr. Johnson, you may submit your amendment.

CHIEF CLERK: "Section 2, page 1, line 12, after the word 'in' add words 'school districts, ' ; and line 14, after the word 'organized' add the words 'school districts, '."

PRESIDENT EGAN: What is your pleasure, Mr. Johnson?

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Mr. Johnson.

JOHNSON: Mr. President, I suppose that this may be in the nature of a little waste of time but I feel very strongly on this matter of school districts. I have been connected with the Fairbanks school district ever since it was organized.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: It seems to me we adopted a rule yesterday that we were going to establish a definite method on voting for the names of these units of local government and that all motions leading to a change in name were to be considered under that rule.

PRESIDENT EGAN: This isn't for the name, Mrs. Hermann. Is that correct, Mr. Johnson? This just applies to school districts, it isn't the name of the --

JOHNSON: I didn't offer the amendment as a change in name, it was offered as an addition.

HERMANN: Added to the other?

JOHNSON: Yes.

HERMANN: Excuse me.

JOHNSON: As I say, I have always felt very keenly about this school district business; we have had the experience in Fairbanks of having had the confidence of the people; the school boards have always operated to the best interest of the people. I am not on the board, so I can say this without impunity. And the system that has been developed under our present law --

EMBERG: Point of order. I would like to ask a question of the mover of the motion.

PRESIDENT EGAN: This is on a point of order?

EMBERG: Yes. You mean that all local government powers should be vested in school boards?

JOHNSON: No.

EMBERG: Wouldn't your language lead to that?

JOHNSON: No more so than all local government power should be vested, as the article now provides, in boroughs and cities. I simply want to add to that the words "school district" so that under the provision of the amendment it would permit school districts to operate on a fiscal and independent basis. As I say, the purpose for it is that we have been operating on that basis for a long time. The school system in Alaska is strong and probably as good as you would find anywhere and it is developed because of its independent setup. The only matter now which prevents complete fiscal independence of school districts is the fact that under the present laws school boards must submit their budgets to the city council for approval. That is in the independent school district, but I believe that if we

are going to delegate taxing power and local government powers to boroughs and cities, then we ought to, in addition, provide that if the legislature saw fit they could also delegate local taxing power to school districts and keep them intact and operating as an independent unit and that is the purpose of the amendment.

KILCHER: Mr. President, may the Chief Clerk please read the amendment again?

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

CHIEF CLERK: "Section 2, page 1, line 12, after the word 'in' add the words 'school districts, '; line 14, after the word 'organized' add the words 'school districts,'."

KILCHER: May I ask a question of Mr. Johnson.

PRESIDENT EGAN: Mr. Kilcher, you may ask your question.

KILCHER: I think in your last statement you just said that you would like to see the local government powers of taxation be also vested in school districts. Now, if that is the case, you should amend your motion to insert the word "only" on line 14 because only in the second sentence is taxation explicitly mentioned.

JOHNSON: I don't quite understand your question, Mr. Kilcher, but I simply intended to add to boroughs and cities the organized school districts as they now exist.

KILCHER: What I am driving at, Mr. Johnson, is the section has two sentences. In one sentence it is a question of all government powers, and in Section 2 it is only a question of taxation. Now, would you want to apply the school district to both sections, as your amendment says?

JOHNSON: That was my intention, yes.

KILCHER: In other words, powers beyond taxation should also be vested in the school districts?

JOHNSON: Well, those powers that now are generally vested in school districts by law, such as operation and maintenance of the school system. That was the purpose of putting it in the first part of the section.

PRESIDENT EGAN: The question is -- Mr. Taylor.

TAYLOR: I would like to amend Mr. Johnson's motion, if I may.

PRESIDENT EGAN: You have an amendment to submit, Mr. Taylor?



The Chief Clerk may please read the proposed amendment to the amendment as offered by Mr. Taylor.

CHIEF CLERK: "Line 12, page 1, Section 2, after 'boroughs' add "public utility districts, public improvement districts, health districts'."

TAYLOR: I move the adoption of the amendment to the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment to the amendment. Is there a second to the motion?

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion.

JOHNSON: Point of order. Is that an amendment to the amendment or is that additional language which doesn't have anything to do with the amendment? Actually, it looks to me like it is a separate amendment.

PRESIDENT EGAN: The original amendment was an addition and this would be further addition to the original amendment. Mr. Londborg.

LONDBORG: Point of order. I believe if the amendment would carry through then the amendment of Mr. Johnson's would be divisible, into separate questions again.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a couple of minutes.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor, the Chair will hold that the proposed amendment to the amendment is not germane to the amendment as before us. The amendment to the amendment would be in order at a later time but at the present time it is not germane to the proposed amendment. Is there further discussion on the proposed amendment? Mr. Taylor.

TAYLOR: Mr. President, I would like to oppose that amendment. If that amendment passed I would necessarily have to vote against the inclusion of this article in the constitution. I think the purpose of this article is to simplify our governmental procedure and also to prevent an overlapping of government functions. Now, we have two governmental functions set up here, the cities and the boroughs. I think that is plenty. They can provide for everything including the schools. So now, if the camel gets his head in the tent by adopting this amendment as proposed by Mr. Johnson, he probably will be all in the tent, bringing with him the amendments that establish public utility districts, health districts, public improvement districts, and

we will be right back to our old method of numerous taxing bodies which we want to get away from. Now, with the borough and the city I don't believe that there is any reason at all but what the taxing purposes for schools can be set up something along the same lines as it is now. I don't feel that we are gaining what we expect to gain if we allow such amendments to go through. I know Mr. Johnson is very sympathetic towards the school district -- he has been an attorney for the school district for many years and he possibly feels that that method as has been pursued, is the best, but I believe that the purpose of this article being drawn as it is is to prevent the imposing of one taxing district on the other, so I am going to oppose the amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I am going to speak on this now and then forever hold my peace. I was right in the middle of an impassioned argument yesterday on this thing when I was shut off, but for what it may be worth, I want to say that I think that we will regret the day, so far as our schools are concerned, if we do not give the schools some sort of taxing power, independent of the other agencies that are working on the other phases of government. I have been close to this problem I will admit it, and that is probably why I feel so strongly on it, but I have seen so many times where needed things that the city wants, needed things compete with needed things that the school district wants, and it is just a matter of emphasis, so far as I am concerned; if it comes down to a point of educating our children as against having more paved streets, I am going to take the schools. Now maybe it won't come to that point, but if it does that is my idea, and it seems to me that we could accomplish exactly what this Committee wants to accomplish by giving the school district independent taxing power. Of course, they would have to do as they do in the states, something about putting a limit on the tax because school districts could run wild the same as anything else, but I can't see any reason at all why the school districts should not have a power to tax within certain limits just as it thinks it needs. Certainly it is not up to a borough or a city or any other organization to say, "Mr. School, you only need so many teachers", and that is just exactly what has happened in our area, in the best of faith I know. But somebody said we need paved streets and admittedly we did need them, but they thought we needed them more than we needed more teachers or more than we needed more schools. It has been mentioned in the Committee here that we are setting up a referee between the city and the school districts by having the borough pass on it. To me that is not so. The borough actually is just a bigger city. It has all the functions that the city has plus some others. Now, in this article as written. we are giving the city specific taxing power which to me seems to absolutely defeat, or could absolutely defeat what the Committee says they want. They want only one taxing district yet we are going to let the city tax, but under

the article as written we are not going to let the school districts tax. I think it is wrong.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I hardly can compete with some of the previous speakers probably in putting over my point, but I served with the school district; I have served on the city council; I have been mayor of a city, and I am against turning the taxation over to a school district, direct. I think that for a school district to do anything other than to make up their budget and submit it to the city or the borough, the same as any other department would submit a budget, it will throw the economy of the city and borough completely out of tune. I think it would be a very, very bad thing. I don't know just exactly what kind of trouble the school districts in Anchorage had. I didn't follow it too closely, but I know that we had a little difficulty over on the Island but we resolved it without too much trouble and we have gotten along very well, and I think it can be done without destroying -- I think you will destroy the cities by permitting this to happen. Taxation can get completely out of hand. I oppose it very strongly. I know I haven't expressed myself as I would like to but I can't ask that you give this too much consideration. It is a very, very important thing, and it would be very bad for the cities and very bad for the boroughs or whatever we decide to call them, and it would be bad for Alaska.

PRESIDENT EGAN: Mrs. Hermann, had you been attempting to get the floor?

HERMANN: No.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Bearing on this particular subject, a conversation I had last year with an editor of a paper in the State of Washington, a city of about 15,000, he informed me that they had 11 taxing jurisdictions in the particular area in which he lived and if I remember some of them, they were welfare, hospitals, sanitary, harbor, and even a trunk sewer system, and he said that was the one thing that was causing them the greatest worry of all and that was the spread of the taxing power. I am against it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have spoken on this same subject a number of times, and I am going to repeat some of the things here that I have said before but I don't think all of you have heard them, because it was not in this body. It has been in bodies of the Territorial legislature, since 1941 when this problem

first showed up. The question here, I think, is a basic one of government, and the taxing powers, and the question is whether or not you shall delegate taxing powers to bodies of certain special purposes for one special purpose. Now, you could very well have taxing powers in special districts or school districts, health districts, welfare districts, public works districts, sanitary districts, and every other kind of district, and as Mr. Hilscher just said, that does happen and has happened in many of the state subdivisions of government. Now, the intent of course, and the thought of the Committee was there would be no limit upon the ability, upon the type and class of schools and their ability to perform their functions, but the requirement here would be that they would have to correlate their activities with all the other activities of government, through some central body, which they now do, as you know, through the city council. The idea of this fiscal autonomy and fiscal independence has been before our legislature since, as I say, since as I recall it in 1941, and the complete separation of the school budget from all other functions of government has never been recognized nor allowed by that body within the limits of their authority. Now, we have had this suggestion in many agencies, and I don't say only the school districts. Many agencies of government like to have a little sphere of government set up for themselves in which they start at the top of their governing body, have their administrative groups, have their taxing power, their collections, and their dispensing of budget, entirely separate government for some one department or function of government within the other structure of government for one purpose only and considering only the one use. Now, that is the problem we face, it is not to say that we don't want better schools or more money for them, it is that their functions be interrelated and co-related with the other functions of government so there can be a fair participation in the tax dollar and in the school income. In the United States they have what they call the American Assembly, it was set up under the President a few years ago, and they gather the great scientists there for discussions on some one subject every year, and I have a paper here which was put out by the Eighth American Assembly and in touching on this point I want to read to you their quotation. It says in part, and I am not going to read it all -- I have asked that the mimeograph section mimeograph this entire article and place it on the desk of each delegate, as it has a lot of very valuable information in addition to what I'm going to read you. "To endorse autonomy for agencies as a general principle would be to deny that state," they are talking about the state here, "that state activities have interrelations and that they need coordination in the general public interest." I repeat that: "To give this autonomous power to special agencies would be to deny that there is an interrelationship and co-relationship between the various functions of government and that must necessarily include schools." Now, I know that we have in this body men who have sat on city councils, been mayors, sat on school boards and been

board presidents, board attorneys, we have a broad cross section here, and I know their interests are conditioned largely by their activities and their environment. I know they are entirely sincere but I am trying to separate just the idea of schools and trying to hold to the principles as to whether the principle of the disbursing and the approvals of budgets shall lie in the body of one general governing body of government or whether you shall have an autonomy without any correlation between the other activities of government -- whether you shall have an autonomy in just one function and one activity of government. I think that that covers what I have to say except that on the broad principle, I think you can have better government at less expense by correlating the taxing activities and channeling them through one body with one set of appraisers, one set of collectors, one set of condemners and tax sale experts, and having that money go into one fund for distribution by a general body elected by all of the people no matter what level of government we operate at. In the national administration the budget goes to Congress; they are the representatives of the people, they approve it. In our state legislature, as we have it set up -- and I know that schools do not and have not suffered -- the same situation takes place. The budget goes to the legislature and they approve, and very liberally approve, funds for all the needs of our schools, and the same situation has existed in regard to the school districts operating under the approval power of the city councils. I know we have not gained all the steps we want to gain all at one time, but I know that our policy has been good; our schools have been healthy, they have progressed; and I see that we are not in this instance deciding upon whether we have good schools or not; I know we are going to have good schools. The question is just how will the money set up be budgeted and approved for schools in relation to all of the other costs of government, so I for one feel that we must maintain within the general governing body the power to approve budgets and that is what we do here.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask Mr. Davis a question?

PRESIDENT EGAN: You may, Mrs. Nordale.

NORDALE: Mr. Davis, could you explain to me how the consolidated school districts operate out in the states in their relationship with the county and city governments.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I can only speak for one state, only the state where I grew up. In that state the county assessed all taxes, and incidentally I want it understood I am not suggesting, as Mr. Rivers mentioned, that we have more than one assessing agency, I think that is silly. One assessing agency, one collecting agency

is all I have in mind. But in the state where I grew up, the county assessed the taxes; the county collected the taxes. The various governmental units in the county, each one told the county board how much taxes they needed. They set the mill rate for their own tax. When the tax mill comes out it has on it so much for this agency, so much for that agency, so much for the other agency, but it is all one tax bill, and so help me I can't see that is bad. It is true there are lots of agencies but each one is assessing only for its own particular need, which is exactly what this Committee is talking about when they are talking about service areas. I would like to see the school budget, the school tax, kept separate and apart from the taxes for other needs. That is what I am trying to say.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to ask Mr. Davis a question through the Chair. Under those circumstances, assuming we have, as Mr. Hilscher has reported, in one county in Washington, 11 various taxing agencies, what agency equalizes the taxes? Assume that your school district wants eight mills, and the public improvement district needs nine mills and the sewer district needs 14 mills and somebody else needs two mills, is there a limitation on the tax that can be applied, and if so who equalizes when these various authorities that require the money get to jockeying one against the other for their participation in the total tax dollar? How does that balance out?

PRESIDENT EGAN: Mr. Davis.

DAVIS: I will try to answer this. In the first place, they don't compete for the total tax dollar. The total tax dollar is the sum of what all the various agencies ask. Who equalizes it? In the state where I grew up the board of county commissioners; in this case no doubt the borough assembly. As to whether they can be limited, in Idaho they were limited by law. A school could not assess or could not levy more than a certain mill rate without a special vote of the people. In special cases, with special vote they could levy still more.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to say a few words on this, feeling that each one is entitled to express his opinion. I have gone along with the Committee in their general thinking of trying to get rid of this overlapping of taxes and has been mentioned, 10, 12, 15 different agencies, each with a blank check to write all they wish to write on it. This is one place I personally would make an exception. When we talked about it in the Committee, there didn't seem to be any other ones who felt the same as I did, so I did not express myself too much

there. However, I did say that I would not put in a minority report on this. Now, I think that it all boils down to just how much we are willing to take a stand on any particular issue. We hear about the fact that there is going to be 10, 12, 14, 20, 30, 50 different taxing districts all the way from street cleaning up to the school districts and health districts and everything else. I think it depends on where we want to place the emphasis here. If we want to use the expression, "Let in the head of the camel and the whole camel will crawl in", that depends on whether we want to make it positive that only the head gets in, if you want to call it that. We hear a lot about the fact that a school district is going to break the municipality. I think it is the people that are voting on that; they are the ones that are going to pay the bill, and if they want to break themselves, they are going to break themselves, that is all. If we have a dollar to spend it is foolish to say we are going to buy something for one dollar and fifty cents. It all depends on what the people want. I think the greatest danger on something like this is to put the schools under the absolute control. Now it isn't just taxing powers as it got written in the last day, it was all powers shall go only to municipalities, such as boroughs and cities. That means the running. Of course, they can delegate the power by setting up a school board if they wish, but I can visualize the schools coming under a very strict political control, and I have seen that very thing out our way with the Alaska Native Service and the political control of the schools. They have the final say-so; they practically come to the point where they dictate as far as voting and things of that kind. That is one thing that I would like to see is the schools be absolutely free of any party politics and things of that kind. I think we are running into a danger when we subject our children and grandchildren and future generations to coming under political controlled school districts. I know if we allow this amendment to go through then the pressure, as we have seen from the telegrams, will be to set up game commissions, to be to set up health districts, and all of that, but it all boils down to how much we are willing to take a stand and say schools are different from these other things, and I believe they are different. These other special districts are special; they are for a certain area. Schools are universal; schools are a state institution and they belong in the state as such. Education is general, and as far as the strength of the school district, I think that they should have the control to say and do as they please, not just tax and get their dollars but to have the complete control and I have seen them operate out in the states; in my home state they operated very much the same way as Mr. Davis mentioned. There was a general assessment and if the people out in one corner of the county or borough, if we would call it that, decide they want a little better school district, hire better teachers, raising their pay and being able to get better teachers that way, that was their business. They knew how much it was going to cost them in taxes for their farms

and other things, and they raised their levy and they built better school houses and they hired better teachers and I think you will find that states like that have probably some of your best standards as far as schools are concerned. I think it is a lot like banking. We have a fear of two people working for the same dollar. Maybe it is like the joint checking account between a man and wife. In one sense they are one and they can trust each other. Well, this is going to be the same people to a great extent, and yet there is a freedom. The school district doesn't have to come to the borough or the city council like a wife begging if she can't have a dollar now to buy something, but have a little freedom to go and buy and spend as she sees fit. I think that this should be given due consideration. I hate like everything to make a break from the general policy in the Committee, knowing that it leaves the gap open for other districts, and yet I can't help but feel that we too can take a stand and say that schools are schools and that these other things are minor in importance. The game commission doesn't feel that theirs is minor, but I still think that the education of children is more important than looking after the game around the country.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I move for a 20-minute recess.

PRESIDENT EGAN: Mr. Cooper moves that the Convention stand at recess for 20 minutes.

UNIDENTIFIED DELEGATE: I object.

LONDBORG: I second it.

PRESIDENT EGAN: It has been moved and seconded. The question is --

ROSSWOG: May I announce a meeting of the Local Government Committee in the gallery for any questions.

PRESIDENT EGAN: Local Government will meet in the gallery where any questions may be asked. Are there other committee announcements? If not, the Convention will stand at recess until 10:55.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the amendment as offered by Mr. Johnson. Is there further discussion? Mr. Smith.

SMITH: Mr. President, I would like to ask a question of the Committee if I may.

PRESIDENT EGAN: You may, Mr. Smith.



SMITH: In the opinion of the Committee, is there anything in Section 2 which would prohibit the borough or the city from delegating to school districts taxing power?

PRESIDENT EGAN: Mr. Fischer, would you care to answer that question?

V. FISCHER: No, because Section 2 specifically grants the assembly the authority to authorize the levying of taxes within the service area and the school district would be considered a service area under this concept.

SMITH: That answers my question. I wanted to get that clear in the record.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to ask a question if I may. Your interpretation of Section 2, also, that the borough in an organized borough would probably be the one and only taxing authority? That is, they would handle all of the taxes, and only in unorganized boroughs would the state tax? Would that be the way to expect the thing would work out?

V. FISCHER: Yes. We would assume a consolidation there.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I dislike very much ever having to take the other side of a question than that taken by Ed Davis. I have the deepest respect for his judgment. I know he is absolutely sincere in everything he does and says, but as he said he has been very close to this problem, and I suggest that he has been so close to it that he may see the trees rather than the forest. I think that if we leave the article as it is that the ideas of the people who are interested particularly in schools, and I have a great deal of sympathy with them because I do feel that schools are important and will always be expressed in the government of the borough or in the government of the city by people such as Mr. Davis, Mr. Johnson, Mr. Coghill, Mr. Dafoe and others who have spoken with us or communicated with us on this subject. When I heard Mr. Londborg speaking of what he considered abuses in the way that the Alaska Native Service schools seem to operate independently and without consultation with the public -- I thought he was making an argument against the point of view which he was expressing which seemed to be that he felt that the schools should be thus independent. I think the abuses which he is speaking of, if they are abuses, are brought about particularly and specifically by the fact that the Alaska Native Service schools are completely removed from the control of the people of Alaska, and that if we adopt Mr. Johnson's amendment we would tend to be making the school districts within our cities and boroughs within the State of

Alaska, at least in a sense, independent of the people of Alaska as they consider the other responsibilities and functions of government. So I hope that the amendment will be defeated.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may we have a roll call, please.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" Would the Chief Clerk please call the roll.

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

Yeas: 9 - Cooper, Davis, Johnson, Londborg, Laws, Nerland, Nolan, Peratrovich, Walsh.

Nays: 43 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Wien, Mr. President.

Absent: 3 - Coghill, Robertson, White.)

CHIEF CLERK: 9 yeas, 43 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 2? Mr. Rosswog.

ROSSWOG: At this time I would like to ask unanimous consent that we return to Section 1. The Committee has an amendment.

PRESIDENT EGAN: If there is no objection, we will return to Section 1. The Committee has a proposed amendment. Mr. Taylor.

TAYLOR: Prior to doing that, in view of the sentiment expressed by the body, I would like unanimous consent to withdraw my amendment.

PRESIDENT EGAN: It has not been really before us, Mr. Taylor. The Chief Clerk may read the proposed committee amendment to Section 1.

CHIEF CLERK: "Section 1, page 1, lines 8 and 9, strike 'provisions of this article' and substitute 'powers of local governments'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to move and ask unanimous consent that this substitution be made, that this committee amendment be approved.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the committee amendment be adopted. Would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

ROSSWOG: Could we have the whole sentence read.

CHIEF CLERK: "A liberal construction shall be given to the powers of local governments in order that these purposes be achieved."

V. RIVERS: I understood that the word "liberal" was to be stricken and a "broad general interpretation" was to be inserted on this as we talked over, and I believe it was the suggestion of the original mover to strike this motion and those words would cover it. I don't know where we get this particular thing because I for one on the Committee have not yet seen it.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a couple of minutes.

RECESS

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

ROSSWOG: Mr. Chairman and delegates, I would like to ask the indulgence of the Convention for a moment on personal privilege.

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

(Mr. Rosswog spoke on a matter of personal privilege at this time.)

PRESIDENT EGAN: You ask unanimous consent to withdraw your original request?

ROSSWOG: I would ask unanimous consent to withdraw our original amendment and propose a new one.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 1, line 8, strike the remainder of the sentence after word 'the' and substitute 'powers of local governments'."

ROSSWOG: Mr. Chairman and delegates, I might explain that this was our intention to have a liberal construction on the powers of local government. As it was written it would have covered the whole article, and we believe this explains the wording and the intention of the Committee.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the committee amendment. Is there objection? Hearing no objection the amendment is ordered adopted. Are there other amendments to Section 1 or 2? Mr. Taylor.

TAYLOR: May I ask the Chairman of the Committee a question please?

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

TAYLOR: It is to the placing of this amendment which was just adopted, or offered. Would it not be better to strike that last sentence in paragraph 1 and apply that to Section 2? Because that section only deals with the powers being vested in boroughs and cities; and I think there is where the question is, as to the liberal construction of those powers.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, actually this sentence applies to more than just Section 2 and possibly in the revision of this article, Style and Drafting in the rewriting, they may see fit to place this sentence as a separate section which might be the more proper way altogether.

TAYLOR: I think, Mr. Fischer, if you will read that particular section, it only applies to local government being vested in the boroughs and in the cities, that the construction that you want placed upon those powers should be in that particular section.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: It would be equally appropriate to put it in Section 11.

PRESIDENT EGAN: Are there amendments to be proposed to these sections? Mr. McNeese, were you attempting to get the floor?

MCNEESE: Are they still going to delay the consideration of the word "borough" or other names?

PRESIDENT EGAN: That is to be delayed until we have a second go-around on amendments. Are there proposed amendments to Section 3?

R. RIVERS: Point of information. Is this the second round?

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PRESIDENT EGAN: This is the second amendment round. Are there amendments to Section 3? Mr. Taylor.

TAYLOR: I had an amendment there to Section 2 awhile ago, but I will ask unanimous consent to withdraw it.

PRESIDENT EGAN: To Section 3, are there amendments? To Section 4? Mrs. Nordale.

NORDALE: Mr. President, I think this was brought up yesterday, but I have sort of forgotten what was said. It is just a question. On line 4, page 2 of Section 3, there was some discussion of the wording, "Each borough shall embrace to the maximum extent possible an area and population with common interests." Does that mean to the greatest degree it shall be a group of people with common interests? Nothing to do with the area -- I mean the square mile?

V. FISHER: What it means is that wherever possible, "Each borough shall embrace an area and population with common interests."

NORDALE: Yes. Then "the maximum extent possible" refers to the common interests, not to the area, the size?

V. FISCHER: No, that is right.

PRESIDENT EGAN: Are there amendments to Section 3? Are there amendments to Section 4? Mr. Laws.

LAWS: Mr. President, should that not be a period there after "law" on the last line, 15?

PRESIDENT EGAN: You ask unanimous consent that the comma be changed to a period?

LAWS: Yes.

PRESIDENT EGAN: Hearing no objection it is so ordered. Are there amendments to Section 5?

TAYLOR: I have an amendment, Mr. President.

CHIEF CLERK: This is an amendment to the amended Section 5. "Line 7 strike the words 'from and'."

PRESIDENT EGAN: In line 7 of the new Section 5 that was adopted this morning.

UNIDENTIFIED DELEGATE: Would you read that again, please?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, there is still some question in the Committee minds as to the final resolution of the intent of this section. We would like to ask that it be submitted to the Committee for further discussion before this is adopted. There are two or three other delegates that have a few questions. Would you object to that request?

TAYLOR: I have no objection to holding it to later, but I do want to bring it up because I think this amendment is very important.

V. RIVERS: I ask unanimous consent that we withhold the consideration of this until we have had a chance to discuss it in Committee further, and with Mr. Taylor.

PRESIDENT EGAN: If there is no objection the matter will be held until the Committee has had a chance to discuss it with the delegates. Are there amendments to Section 6? Mr. Hurley.

HURLEY: Mr. President, I have an amendment to Section 6.

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

CHIEF CLERK: "Section 6, page 3, line 9, delete the comma, insert a period and strike the balance of the section."

PRESIDENT EGAN: What is your pleasure, Mr. Hurley?

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the amendment. Is there a second to the motion?

MCNEALY: I will second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. Mr. Hurley.

HURLEY: Mr. President, I realize that this section is, to a large extent, of a recommending nature rather than a directive nature, but yet I feel it could be construed as a directive, and a limitation on the functions of the borough assembly. I also recognize that we have a problem presently in the Territory in the matter of making it desirable for cities to incorporate and to take in suburban areas into their incorporated area, but I think what seems to be a relatively unimportant amendment goes to the basis of this whole concept that is being brought forward here on the matter of local government. The very fact that we previously had an amendment concerning the

school districts indicates to me that the question is one of deciding where the relative powers of this borough are going to be. I think the whole article is fairly inconsistent in its acceptance of cities themselves. In other words, they have agreed that it is undesirable to have school districts separately organized; it is undesirable to have public utilities separately organized as taxing units; it is undesirable to have various other districts; yet they say it is desirable to have cities. They go further and provide in this section that in the event an area needs a particular public service that it shall not have it if it can meet the qualifications of incorporating as a city. I think it tends to destroy the desirable, in my mind, function of the borough to govern the area in the most desirable manner. I think it sets up a stumbling block. Now I can recognize that those people that have had problems of city incorporation are going to be very suspicious of this amendment, but I submit by leaving these words in we are, in effect, putting a stumbling block in front of the effective operation of our borough government. I also submit that there is nothing in my mind that a service area within the borough cannot do that a city can do, so, in fact in my mind a city is no more than an organized service area, and I think if we make it possible to, over the years, lose our old-fashioned concept of the city, we will eventually be better off. Now, the adoption of this small amendment is not going to accomplish all that, but in my opinion it is going to remove a possible stumbling block to more efficient administration of borough affairs and I hope that you will see fit to adopt the amendment.

PRESIDENT EGAN: Is there further discussion of the proposed amendment?  
Mr. McNealy.

MCNEALY: Mr. President, I had the same amendment written out, and being a little slow, I appreciated the fact that Mr. Hurley has submitted this amendment, and I feel obliged to speak on this particular subject, taking it in conjunction with Section 1 of the article to which this particular section refers to. Now, contrary to statements that have been made on the floor about all of the elected representatives to the legislature being from within the city of Fairbanks, I reside outside of the city of Fairbanks and I also, I believe, on two occasions, however, voted in the area in which I live to become annexed to the city, and in both cases it was voted down, so when I speak I don't speak from a personal standpoint, but my thought in regard to this is I have seen this happen before. Bills have been offered in the legislature in an attempt to force annexation. There has been a continuous movement in the Territory over the years. I remember years ago being on the school board down at Seldovia and we were told if we did not incorporate the town they were going to take the high school away. Incidentally, we incorporated the town and in that instance it did not do any harm, according to the latest reports that I have. I see in this, written in here, a way of at least a backdoor

attempt of forcing cities, small areas, to either incorporate or forcing areas to become annexed to the city, because under the borough system of government here, the county system or what you will, we state in the first paragraph that the liberal construction shall be given to the power of local government; and reading that in conjunction with this particular section here, it is going to give the assembly, certainly, the right to construe this paragraph here that they have, say that an area outside the city, for example, if it is necessary to have the health district to protect not only the health outside the city but inside the city, and they want to reach out and encompass this area outside the city and they can use that as a whip to hold over the people in this outlying area, and say if you don't become annexed and come into part of the city the assembly is not going to give you this service here. You may be paying taxes out here but you are not going to get anything because this is a simple way to do it and bring you within the city. Or they can go to a small community, say within 10 miles of the city, if that is within this prescribed area, and the assembly can say we are giving you nothing out here because the better way for you to be is to set up a small corporation out here. I think we all know a lot of these small incorporations don't work out because there isn't the money there for the taxation in that particular area to support a small town. I feel on this. I could talk on it possibly for an hour. I remember speaking on it in the legislature. I am not going to take up the time. I am glad Mr. Hurley advanced this here because of the fact that we should consider that the areas outside the city should not be controlled and dominated by a larger group of people within the city. I believe the American way of life gives us the right to incorporate if we want to; to become annexed to a city if we want to; or if we don't want to, to maintain the status quo where the only ones that are actually affected by it to a great extent are those outside the city itself.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I have experience along that same line that has just been presented here, and the area where I live we tried twice to get into the city and some people opposed it and we did not get in and now there is a group that have felt they have been forced, coerced by the bigger body and they have backed up on it. You can't coerce people or groups to come in. It is wrong to try to hold it over the outlying districts, a threat, because they will not come in by a threat. When it is advantageous to come in they will come in, and if this is a threat over them, I'm going to be for the amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I might speak for the Committee on this section; it is just as the Committee feels, and they may



vote as they choose. Our main intention was to try not to have a lot of separate little districts set up, you know, handling only one problem and try to combine them.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, on this section, the thinking of the Committee, as I interpret it, was that you will notice in this section there is no limitation on taxes in the amounts of assessed evaluation or the amounts of rates, and we had visualized a situation where a city had grown up with certain services, where there was a fringe area that needed certain services, but not all of the services, so the fringe area could annex the city on a differential taxation basis for such services it may desire, such as a fire protection for one. It was also visualized that out in an area where a service area had enough functions, where it stood by itself, where it got big enough to incorporate as a city under this section, it could then do so. There was no intent or thought in the Committee's mind that there was any possibility of putting pressure on to get them to do certain things. The thought was it would still be their own choice and selection as to whether or not they would be better served by entering a fringe area as a suburban area with the differential of taxation, or the choice of remaining as a part of the unorganized borough and furnishing those services for themselves. It seems to me that the section does no harm; it seems to me that it has considerable value there and is not intended to coerce, as the word has been used, anybody into joining something they don't want to join or receiving services that the majority of the people do not desire to receive.

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

KILCHER: Mr. President, I would like to ask a question of Mr. Rivers, if I may. Has the Committee arrived at a compromise in this article in recognizing the city as a special unit with special rights, or has the Committee possibly considered that there should be no definite line between city and borough?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I can say for the Committee this isn't a compromise, it was figured that it was simply a little direction to the assembly.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: It seems to me, Mr. President, that historic outline Mr. Rivers gave us yesterday about cities in general was partly to the point and then again it wasn't. The city of old, as I know, has often been only a limited rallying point for defensive purposes, where the citizens flowed forth and back to the

surrounding countryside. The name "city" itself means tribal dwelling. That is the name of the city. It means that a tribal dwelling, that the tribe once in awhile met in a defensible place, and it is only later that the city legally became a distinct unit, and whenever that happens, hand in hand with this development, went the subjugation, often the exploitation, and the bossing of the surrounding countryside when surrounding countryside became dependent upon the city, economically as well as politically, rather more so politically. I just wondered if we could not give consideration to the idea that Mr. Hurley opened up that the city may not be considered anything more than a point of density in a borough and that there should be no parallel police power, for instance, within a city and without it, that there should be possibly no differentiation at all between the city and the whole borough. When I first heard about this concept weeks ago and the discussions with people during the holidays, we understood what the radically new idea would be that there exists practically no difference between city and borough, except a lessening of density to which the outlying areas of the borough, and I wonder if this idea could have been spelled out better or whether it might have been desirable or whether the Committee considered it undesirable to follow this idea. I am for the amendment, of course, but I don't think it solves the problem.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think practically everybody who has spoken has been in favor of the amendment but in their statements I don't believe they have taken full cognizance of the contents of the paragraph which they seek to change. Now, I can visualize what a service area may be and possibly could be, as Mr. Rivers says, for fire protection; it might be an area that was not near a city but could be near another service area that was already established, and then this particular area would then attempt to incorporate themselves or organize themselves into a service area. We should not lose sight of the fact, also, that this area is represented, or the people in this proposed area are represented in the assembly. They have the representative there, so when this matter is brought up to the assembly they have the right to protest, or to propose that they be organized as a service area for a particular purpose such as to require equipment, or it might be for some sewer lines, or for some better roads, or for any one of the numerous improvement districts that can be organized under our present law. Now, when this matter is brought up to the assembly it may be that members from outside of the city would realize the problems that this particular area was facing so then under the wording of the present article in there, there are four things that they could do. They could allow this area, if it was not near another service area that they could be served from, or if it was not near a city where by annexation they could secure the same service from the city, or they could then

be required, if the assembly saw fit to, to affiliate with an adjacent service district, receive the services that they want to do for themselves, or they could incorporate as a city if they had sufficient population, or they could be annexed to a city. Now there is no forced annexation in this matter as I can see it, so there is a wide choice. They can be either a service district or those functions can be performed by an already existing service area. They can incorporate as a city or they can be annexed to a city. It is up to the body in which they are represented. It is the American way of doing things that that body decides, that it be for the best interests of this area. The body can decide that it would be possibly to the financial betterment of the people in that area if they did incorporate another service district or if they incorporated as a city. So, I think it should be left in here so that that body, the assembly, could meet and consider all factors and recommend as to whether they could organize as a service district or whether they could secure the same service from an adjacent service district or whether they could incorporate as a city or whether they could be annexed to a city that is already incorporated. It is a wide latitude that they are given and I think that in an assembly in which they are represented and are a part of that body, I think they would receive proper consideration. I think the amendment should be defeated.

PRESIDENT EGAN: Mr. Hurley, do you desire to close? Is there anyone else who wishes to be heard? If not, Mr. Hurley.

HURLEY: This will be very short, Mr. President. I simply urge that we look at this amendment with the new concept of our borough assembly and I submit that, in my own thinking at any rate, that the adoption of this amendment would not preclude the borough council from doing that which Mr. Taylor says they might want to do. I think it does not do that, it simply improves the situation in my mind.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Davis.

DAVIS: Mr. President, might I ask a question?

PRESIDENT EGAN: You may ask a question, Mr. Davis.

DAVIS: I would like to refer back to line 24 on page 2. The words I am wondering about are "portions of" in the middle of that line. We have talked about schools and I don't have schools on the brain; it is just an illustration this time. We have talked about schools being a service area. It seems to me that it might be that we would wish to have a school district cover

the entire borough. We might not, but it seems to me if we struck those words "portions of" that you would have the same thing and still allow, if it was wise, still allow a service area that would cover the entire borough. I wonder what the Committee might think about that.

HELLENTHAL: Mr. President, I rise to a point of order. Why doesn't this amendment and similar amendments that arise quickly be referred to the Committee when they meet in connection with Section 5, as they have announced?

COOPER: Point of order. Mr. President, this was not offered by an amendment. It was a question that was asked by the delegate to the Committee.

PRESIDENT EGAN: It was a question of the delegate to the Committee. Mr. Rosswog, would you care to answer the question?

ROSSWOG: I believe it was our intention that service districts could be set up in either portions or covering the whole borough. Now, as I see it, it would not make any difference whether the words were stricken. It would still leave the same intent. It could be set up over portions or over the whole area.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I also agree with Mr. Davis. He has a good point, but possibly the best way, so as not to create the question as to whether portions of boroughs would have service areas, would it not be better after the word "within" to insert "the whole or"?

DAVIS: That would be all right.

PRESIDENT EGAN: The Chair wonders, Mr. Davis, inasmuch as the Committee is going to review Section 5 at a recess if that matter might be taken up at that time? Would that be satisfactory?

DAVIS: That is all right with me.

PRESIDENT EGAN: Or is it the wish of the Convention that an amendment be offered at this time? Mr. Fischer.

V. FISCHER: On behalf of the Committee, I will offer the following amendment: On page 2, line 24, Section 6, after "within" insert the words "the whole or". I ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the amendment. Would the Chief Clerk read the amendment once more.

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HINCKEL: I object.

PRESIDENT EGAN: Objection is heard to the unanimous consent request. Do you so move, Mr. Fischer?

V. FISCHER: I so move.

PRESIDENT EGAN: Mr. Fischer so moves. Is there a second?

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers seconds the motion. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 24, after the word 'within' insert the words 'the whole or'."

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I object for reasons of information. My idea of a service area was something that would permit a differential in taxation between one portion of a city or a borough and another. Am I wrong?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think in our presentation yesterday we did point out that in some cases the whole borough might be constituted as a service area. For example, in an outlying district somewhere, in an outlying borough that is generally sparsely populated, the whole borough may be constituted as a school district, or as a health district, and this actually is only to clarify committee intent. This is not to force that but to authorize the creation of the service area in the whole borough.

HINCKEL: What would the object be? I still can't see it. If the school district covers the entire area, then where would the difference come? If it covers the whole borough then the whole borough as a borough would have the same rate of taxation to support the school district, would they not?

V. FISCHER: Yes, that is correct.

HINCKEL: Then why would you make it a service area? It would just be the general taxation of the borough would it not?

V. FISCHER: Your point is correct from that standpoint. However, it was the intent of the Committee that when you establish

a service area you could say, establish a separate school board, for instance, to supervise the school functions. I don't think it is too material, one way or the other. This is just for clarification actually.

HINCKEL: I still don't see it and I think I am right, but I will withdraw my objection.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am going along with Mr. Hinckel. I think this is anything but a clarification of the entire approach to this subject. This talks about organized boroughs. If they weren't rendering some services they would not be organized in the first place. Now, how a service district in an organized borough can fit into this picture along the lines of creating a school board with jurisdiction over the whole borough which already has an organization is more than I can see. The whole thought of service districts is that there be something less than the complete service rendered in different zones, and I think that it would be perfectly all right, as Mr. Davis first suggested, to say "special services within organized boroughs may be established".

MCCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Is Mr. Rivers offering an amendment?

PRESIDENT EGAN: No, but we have an amendment before us, Mr. McCutcheon.

MCCUTCHEON: Whose amendment, Mr. President?

PRESIDENT EGAN: It is the amendment offered by Mr. Fischer and seconded by Mr. Victor Rivers. Mr. Hellenthal.

HELLENTHAL: Mr. President, I have a point of order. Our rules provide that amendments at this stage of the enactment of an article are to be considered by the committee, and that implies that others interested can be there. This is a committee amendment, and I think the committee should deliberate and listen to it and listen to others concerned and not take the time of the whole body here while they go through their labors.

PRESIDENT EGAN: Mr. Hellenthal, the rule says that the committee may waive that right of hearing.

HELLENTHAL: Point of order. I don't think that one man on the committee can stand up and say: "Unless I hear somebody object this is the committee amendment." They have to meet and discuss it. That can be abused terribly.

PRESIDENT EGAN: Mr. Hellenthal, the Chair will still hold that it is up to the committee. If the committee chairman gets up and makes a statement saying that he would rather have it come before the committee at a recess, it would comply with the rule and he would have that right, but that hasn't been done. Mr. Rivers.

R. RIVERS: I would like to straighten Mr. Hellenthal on the rule. The first section by section round must be cleared with the committee.

MCCUTCHEON: Mr. President, point of order.

R. RIVERS: I have the floor on a point of order.

MCCUTCHEON: I believe it is the Chair's prerogative to direct --

PRESIDENT EGAN: If you asked for the floor at this time on a point of order, the Chair did not understand that. Mr. Ralph Rivers, then you have the floor on a point of order with relation to the rule then until you have stated your --

R. RIVERS: Which says that on the first reading for amending purposes, section by section, each person with an amendment to propose must consult with the committee, but on the second round they may be offered without such consultation with the committee. I just want Mr. Hellenthal to get straightened out on the rule. This thing is in order as I see it. I am speaking to the amendment. I am speaking on the intent involved. Mr. Davis started this thing going; Mr. Fischer wanted to change it, so he changed it. I said Mr. Davis's proposal seems to fit into the general intent and purpose and that is that naturally service areas may be established within an organized borough. Well, "within" doesn't mean the whole borough necessarily or part of the borough, but when you start pinpointing or flagging the proposition that a service area may be set up within a whole borough, you are talking about organized boroughs and naturally they are service districts or they wouldn't be boroughs. Mr. Rosswog.

ROSSWOG: I think it is approaching 12:00 o'clock and I move now that we recess until 1:30.

PRESIDENT EGAN: Mr. Rosswog moves that the Convention stand at recess until 1:30 p.m. Are there committee announcements? Mrs. Sweeney.

SWEENEY: The members of the Administrative Committee will remember that they have a luncheon meeting right at 12:00 and I would like to also announce that Engrossment and Enrollment will meet at 1:00.

PRESIDENT EGAN: The Administrative Committee will meet at

luncheon at 12:00, and Engrossment and Enrollment will meet at 1:00. Mr. McNealy.

MCNEALY: Upon recess the meeting of the Ordinance Committee.

PRESIDENT EGAN: The Ordinance Committee will meet upon recess. Are there other committee announcements? Mr. Riley.

RILEY: Rules immediately upon recess, very briefly in the gallery.

PRESIDENT EGAN: Are there other committee announcements? Mr. Rosswog.

ROSSWOG: Local Government Committee will meet at 12:45.

PRESIDENT EGAN: Local Government Committee will meet at 12:45. If there is no objection the Convention will stand at recess until 1:30.

RECESS

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

RILEY: Mr. President, may we revert to committee reports?

PRESIDENT EGAN: We will revert to committee reports at this time? Mr. Riley.

RILEY: A report of the Rules Committee, two proposed additions have been circulated. I believe there is a copy on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as suggested by the Rules Committee.

CHIEF CLERK: "Rule 16c. Insert after second sentence: 'Proposals containing more than one article or which in the Committee's judgment contain subject matter properly divided into more than one article, shall, by the committee, be separated into appropriate articles and may be reported back to the Convention article by article.'

Rule 44. 8a. The reading of a proposal incident to Style and Drafting's report, if said report be accepted by the Convention, shall be deemed to be the proposal's third reading before the Convention, whereupon the proposal shall be before the Convention for final passage."

RILEY: I ask unanimous consent, and might add these are both proposals that have originated in Style and Drafting as a means of expediting work in the closing weeks.



PRESIDENT EGAN: Mr. Riley asks unanimous consent. The Chair would like to state before we put the question with respect to Rule 44, 8a, that the rules were not exactly clear as to what would happen, whether we would have to read the proposal for the third time in its entirety twice or not, and this would just clarify the fact that we will read the proposal in its entirety when it comes to us from the Style and Drafting Committee, and then in third reading we will read it by title only, and it will then be open for debate. Mr. Hellenthal.

HELLENTHAL: Mr. President, I am not quite clear on the import of the proposed Rule 44, 8a. If Style and Drafting makes a change which might be considered to be a change in substance rather than in form, will it require a two-thirds vote?

PRESIDENT EGAN: It will under the existing rules, Mr. Hellenthal, require a two-thirds vote, that is correct.

HELLENTHAL: In other words, then it will take a two-thirds vote to upset any decision reached in Style and Drafting?

PRESIDENT EGAN: The Chair was speaking of an amendment to the proposal at that time. We can accept or reject the whole report by a majority of vote.

HELLENTHAL: Any portion of it?

PRESIDENT EGAN: Whether we can do it under the rules as to any portion of the report, perhaps Mr. Riley can --

RILEY: As long as Style and Drafting follows the suggestion set forth in Rule 16c of dividing its proposals into the appropriate articles, action in accepting a given report would be had on the entire article, and for purposes of third reading an article should be read in its entirety if it is to be deemed third reading purposes of going on final passage, but if a Style and Drafting Committee report is objectionable to the membership, if they feel there has been substantive change, they simply won't accept the report, they will refer it back to them.

HELLENTHAL: Why can't you object to one phrase, one word, or one section, if you deem that a departure has been made from the jurisdiction of the Committee?

RILEY: That is what I would expect to happen.

HELLENTHAL: Is it possible for that to happen under this proposed change?

RILEY: It is possible to object to anything, as I see it, if I understand your question.

HELLENTHAL: Is it possible to do that within the rule?

PRESIDENT EGAN: To make a proposed change, Mr. Hellenthal, under our existing rules -- do you so move the adoption of this report?

RILEY: I have, yes.

PRESIDENT EGAN: Is there a second?

DAVIS: I second the motion.

PRESIDENT EGAN: Mr. Davis seconds the motion. The understanding of the Chair is that under the existing rules as they are right now and will be, even if this new rule is adopted, that when we read the Style and Drafting Committee's report in its entirety, you could offer amendments at that time, but it would take a specific amendment at that time which would take a two-thirds vote, Mr. Hellenthal. It would take a majority vote to reject the whole report.

HELLENTHAL: Mr. President, that was certainly not my understanding of the prerogatives of Style and Drafting.

PRESIDENT EGAN: Mr. Davis.

DAVIS: The only purpose of the proposed rule here is this: Under the rules, the third reading must be a full reading. Now Style and Drafting figured that it would be better for everybody concerned, more understandable for everybody concerned, at the time they brought in their report to have a full reading at that time, so if there were any changes people could catch them at that time. Then, assuming that the report is adopted, there wouldn't be much point in a full reading again in third reading, so we wanted that reading at that time to be considered as a third reading if the report was adopted. That was what we had in mind.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, may I ask Mr. Davis a question?

PRESIDENT EGAN: You may, Mr. Hellenthal.

HELLENTHAL: Then, Mr. Davis, say, to make a specific illustration, say the requirement that residence be actual and bona fide is omitted in the Style and Drafting revision of the suffrage requirements. Could someone make an amendment that it be included and that the original language in general be used, and would it take but a majority vote for that to pass?

DAVIS: I don't believe I can answer your question. Certainly you could refuse to accept the report on that ground that Style and Drafting had not done its job. They left out something or

changed something of substance -- what vote it would take I cannot answer.

PRESIDENT EGAN: Mr. Hellenthal, the Chair can answer that, that under the existing rules and this argument came up in the beginning of the session, also, under existing rules if you wish to offer any type of amendment now when the Style and Drafting Committee brings in their report, it will take a two-thirds vote. It will take a majority vote to reject the whole report.

HELLENTHAL: Mr. President, I want to be heard on that subject.

I participated in the original debate, and, frankly, my understanding was different. When a Style and Drafting Committee was picked from among our members in the same manner as any other committee it was not my intention and I don't think it was the intention of anybody here to confer upon that small group the right to make a change of substance in an article and to require a two-thirds vote in order to upset that change, and I think Mr. Sundborg has the same feeling and he is nodding his head in agreement with me.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think maybe I can throw some light on the topic, which Mr. Hellenthal brings up here, which I don't think is exactly on what is proposed here in Rule 44. Yours was a little different kind of a question, but he asked could we adopt a report here by a majority vote if it made substantive changes. Our rules say that the Style and Drafting Committee has no authority to make any change in substance. If Mr. Hellenthal, or any member, when a report from Style and Drafting comes back on the floor, thinks that we have made a change in substance, that member has a point of order against our report and he should put the point of order to the President, that our report in such and such a particular is out of order because it has made a substantive change. If the President should rule that that is correct we would have to take the report back or else we would have to get a two-thirds vote of the body for the adoption of the part of the report which had been ruled to be a change in substance.

HELLENTHAL: Say the President, whom I have great respect for but is fallible like the rest of us, say he made an error in ruling on a point of order, would it take a two-thirds majority to overrule his decision?

PRESIDENT EGAN: No, it takes a majority vote, Mr. Hellenthal.

HELLENTHAL: I think we've made this clear then.

PRESIDENT EGAN: The Chair feels that it is very fine that

this question has come up right now before we have started this discussion and the Chair also feels, Mr. Riley, if you are in agreement, that it would be well to have a recess of five or ten minutes at this time and have the Rules Committee and the delegates, any delegate who is interested, come before the Rules Committee, and we will attempt to spell that out in the rules so that there is no doubt in the minds of any delegate. Mr. Riley.

RILEY: Mr. President, if I may first, it might provide further clarification while we are all here. The process goes even further, as I understand it, than outlined by Mr. Sundborg. If for example, Mr. Hellenthal, you object to a phrase or a word in the belief it is a substantive change, you need only muster a majority to reject the report and there is no place for it to go but to Style and Drafting who has been made aware of your objection and its nature. Then later, if because of defect, an oversight, or something that occurred to no one, you wished to amend it specifically, that and that only is where your two-thirds comes in.

PRESIDENT EGAN: Mrs. Hermann has been attempting to get the floor.

HERMANN: Mr. President, I think I can settle Mr. Hellenthal's worries by referring you to Section 8 of Rule 44, not Section 8a. But it says, "Action on report of Committee on Style and Drafting and action on amendments as to phraseology only."

PRESIDENT EGAN: As the Chair recalls, all the discussion that took place earlier in the session, the Rules Committee definitely stated that any amendment that would be offered at the time the Style and Drafting Committee brought back their report would have to be made by a two-thirds vote.

HERMANN: That is amendments as to substance, Mr. President.

PRESIDENT EGAN: Yes. Mr. McNees.

MCNEES: May I suggest that the report from Style and Drafting be referred back to the floor by way of the committee. That might save a lot of time before it's over with, too.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: By way of what committee?

MCNEES: The committee for the original article.

SUNDBORG: Mr. President, in every event, as I have said here on the floor previously, Style and Drafting has cleared with a representative nominated by a substantive committee before it has brought its article back on the floor. We don't feel that

we should refer them back through those committees. In fact, our rules do not provide for that. This is a report of the Style and Drafting Committee, and it has to be our report and be acted upon by the Convention, and not by the substantive committee, because many amendments have been made here on the floor, and we know the proposal is no longer the chattel of the substantive committee. They may have been changed in many ways, and they have been in almost every case, and I believe it is up to the Convention to accept or reject the report of the Style and Drafting Committee and not up to the committee which may have drawn the bones of the article in the first place. It has been threshed out here on the Convention floor.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Point of information here. Isn't this proposed report 8a trying to combine 8 and 9; 9 mentions specifically third reading and it says here in 8a that this "shall be deemed to be the proposal's third reading..." So we would have to have an amendment to No. 9, I believe, on that.

PRESIDENT EGAN: Mr. Riley.

RILEY: This is to merge two readings in one, to save the time of the third reading, as you would recall it, which is provided for in 9.

PRESIDENT EGAN: The Chair still feels that it might be well to have a Rules Committee meeting at this time and each delegate who has any questions, and including the President, attend that meeting and we will come up with a real understanding of what we are going to do. If there is no objection the Convention is at recess.

RECESS

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

RILEY: Mr. President, I ask unanimous consent on the part of the Committee to withdraw the proposed Rule 44-8a.

PRESIDENT EGAN: Is there objection to the unanimous consent request of the Chairman of the Rules Committee? Hearing no objection the proposed Rule 44-8a is ordered withdrawn. Mr. Riley.

RILEY: My earlier motion for adoption now extends only to Rule 16c.

PRESIDENT EGAN: Unanimous consent is asked that the new proposed Rule 16c be adopted by the Convention. Is there objection? Hearing no objection the proposed rule change is ordered adopted. Mr. Riley, did you have anything else?

RILEY: In the way of explanation if it is necessary, Mr. President, it was simply felt that rather than chance need to review this procedure, to explain it perhaps several times a week, the consensus was that we will go ahead and read measures in their entirety when Style and Drafting makes its report as well as in a formal third reading.

PRESIDENT EGAN: Are there any communications at this time? If not, we have before us Committee Proposal No. 6/a. There was an amendment. Mr. Fischer.

V. FISCHER: I would like to ask unanimous consent to withdraw the last amendment.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent to withdraw the proposed amendment that was offered by him before the noon recess. Is there objection? Hearing no objection the proposed amendment is ordered withdrawn. Are there other amendments to Sections 3 or 4? Mr. Rosswog?

ROSSWOG: I believe there is a committee amendment on the Chief Clerk's desk.

PRESIDENT EGAN: For Section 6?

CHIEF CLERK: We are on 3 and 4. Section 6 is where we left off.

PRESIDENT EGAN: If there are amendments to Section 6 would the Chief Clerk please read the proposed committee amendment.

CHIEF CLERK: "Page 2, line 24, Section 6, strike 'portions of'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: This is a committee proposal and I would move and ask unanimous consent that this amendment be adopted.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the proposed committee amendment be adopted. Would the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Line 24, page 2, strike the words 'portions of'."

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Section 6? To Section 7? Mr. Ralph Rivers.

R. RIVERS: I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 7, page 3, line 12, strike the words 'necessary functions' and substitute the words 'services it deems necessary or advisable'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I ask unanimous consent for the adoption. I might say the Committee has concurred with me on that.

PRESIDENT EGAN: Mr. Ralph Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Mr. Gray.

GRAY: I would object for a matter of information. What difference does it make, Mr. Rivers.

R. RIVERS: The point was made yesterday that where it says, "the legislature shall provide for the performance of necessary functions," and somebody said, "Who decides what is necessary?" and the Committee said it would take it under advisement. I pursued the point a little bit and drafted this language, "for the performance of services it deems necessary or advisable". In the first place, it specifies that the legislature is the one who shall use its discretion; it clears up that point and also improves the context a little.

GRAY: I withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Cooper.

COOPER: I had a question to ask. Earlier in the day, on line 13 --

R. RIVERS: Let's have a ruling on this other one first.

PRESIDENT EGAN: You are referring to this amendment?

COOPER: Yes, sir, and this has a bearing on it. Line 13, it was "the greatest possible measure"? Was that the amendment? (Answer not audible.)

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Hurley.

HURLEY: Mr. President, I would like to have the section read as it will read now.

PRESIDENT EGAN: Would the Chief Clerk please read the section as it would appear if Mr. Rivers' amendment was adopted.

CHIEF CLERK: "Section 7. The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs allowing for the greatest possible measure

of local participation and responsibility."

PRESIDENT EGAN: Is there objection to the proposed unanimous consent request?

COOPER: I have to object.

PRESIDENT EGAN: Do you so move, Mr. Rivers?

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers so moves for the adoption

WHITE: I second the motion.

PRESIDENT EGAN: Seconded by Mr. White that the proposed amendment be adopted. Mr. Cooper.

COOPER: Mr. President, I have to apologize for not being here yesterday when this was very likely discussed. However, the way I see it it says "shall provide for the performances of the services" -- is that the intention?

R. RIVERS: Speaking of unorganized areas where they don't have any self-functioning. Here the state would perform those services that the legislature deems necessary or advisable until such time as the area does get organized.

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

COGHILL: I would like to ask Mr. Rivers a question if I may.

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

COGHILL: Isn't there quite a difference between the words "services" and "functions"? Wouldn't the functions of an unorganized borough be completely different than the services that the legislature would provide for it? Wouldn't the unorganized borough have a definite function?

R. RIVERS: The unorganized borough does not function period. All the functioning is at the state level or through state operations and, therefore, it is only certain social services that the state performs in the unorganized areas. So I think that the word "services" is better than "functions", but I don't mind leaving in the words "functions as it deems necessary or advisable", but I mean it is more realistic that certain state services that are performed in an unorganized unfunctioning area.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will



signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 7? If not, are there amendments to Section 8? To Section 9? Mr. Coghill.

COGHILL: I have considered placing an amendment on the classes of cities. With the privilege of the Chair I would like to ask a question of the Committee.

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

COGHILL: We went over this to some length yesterday and still, after thinking about it quite a bit, I still can't see where the city of the first class should be discriminated against the city of the second class. I wonder if I could get an explanation from the Committee as to why they have left out the city of the second class.

PRESIDENT EGAN: Could the Committee or any member of the Committee answer that question? Mr. Doogan.

DOOGAN: I will try and answer it. In any borough, organized borough, you would have, almost of necessity, a city of the first class, a fairly substantial city, whereas when you get into classes of cities that are second and third-class cities they are incorporated, it is true, but sometimes have very small population, and their representation on the assembly would be out of proportion to, if you are using population as a figure, would be out of proportion to the people that they represent.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I don't want to try and argue, but I am trying to get it clear, not to the point of the outlying areas. Now, you take a city of the second class which will have a population of 500, and you might have 3,000 or 4,000 in the outlying areas immediately surrounding this small service community that might be out there, and I think that in the constitution, leaving it just to the city of the first class, that it might tend to discriminate against that particular incorporated unit to the point that they couldn't grow or become elevated to the first class.

PRESIDENT EGAN: Mr. Coghill, perhaps Mr. Lee has the answer to your question. Mr. Lee.

LEE: Well, we figured this would be the most advanced type of city. We haven't put anything down here as to the second class, third class, fourth class or fiftieth class of cities which possibly the legislature might set up. So we have in a later section that the legislature may extend home rule to other

classes of boroughs and cities; it is left to the legislature, not to the constitution. I don't know if that answers your question, but that is the way I look at it.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, if I may answer, along with Mr. Lee, I believe it states here that a home rule charter, and a home rule charter is where they have their own commission set up their own charter, but it wouldn't necessarily mean that the other cities couldn't have charters, there might be charters supplied under general law that they could accept.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, my purpose in asking the question is that I know that the legislature can provide for other cities but why then adopt a procedure for the first-class city?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: At the present time we all agree that the municipal code needs amending but at the present time a city of the first class can be organized by 250 people or over; a city of the second class by 40 people or more; and a city of the third class by five people or more. If they would amend the code in such a way that the city of the second and third class will come up to a reasonable population quota, then under this they could adopt their own charter if the legislature so provides.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The purpose in asking this question is not only the clarification of the first-class city but also to the point where that cities of the second class or third class might be well discriminated upon in their place in the borough assembly where they would be the principal community within that borough. You have protected for the first-class city but not for the other classes of cities on the borough organization, and I believe that it should be left just cities, not cities of the first class, and then leaving the legislative procedure still in there, they could still provide for the charter part.

DOOGAN: The answer to that is that there probably would not be known as what is known as a first-class borough unless it definitely had a first-class city as some substance of it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, if I may contribute. Cities will act either under grants of power without home rule charters, or they will act under home rule charters. But that will have nothing to do with the representation on the borough assembly;

whether it has got a home rule charter or not doesn't affect its share of representation.

PRESIDENT EGAN: Are there amendments for Section 9?

COOPER: I have an amendment I would like to present orally to Section 9.

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

COOPER: The sentence in Section 9, beginning on page 4, line 2, beginning with the word "in" and through the word "charter" on line 7, strike that sentence.

PRESIDENT EGAN: Mr. Cooper, do you so move?

COOPER: I move the adoption of that.

PRESIDENT EGAN: Mr. Cooper moves that the sentence beginning with the word "in" on line 2 and ending with the word "charter" on line 7 of Section 9, page 4, be deleted from the section. Is there a second?

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. Is there discussion? Mr. Cooper.

COOPER: Mr. President, my amendment would provide for the legislation or the law to accomplish by a uniform procedure the various preparations, approvals, or rejections that are set forth in that sentence. This sentence merely treats the subject in the event there is no such legislation. By striking this sentence it would automatically be mandatory upon the legislature to set a uniform procedure to provide for the accomplishment as set out in the sentence, and it would be uniform throughout the first-class cities, second-class, and on through any class city or borough.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to explain why this particular sentence is here and why it is needed. The Constitutional Convention in Pennsylvania before the turn of the century adopted an amendment to the constitution authorizing home rule to cities. At that time they outlined what powers home rule cities would have at great length and did everything except provide the method of the adoption of a charter. That was left to the legislature. I think it was only about three or four years ago, if it has been done as yet, that Pennsylvania, that the legislature ever got around to authorizing, to providing a means of adopting a home rule charter. In other words, the

authority was there but it couldn't be exercised. You will find that as you study provisions for home rule in the various constitutions that, I think in all but two cases, a self-executing clause like this is provided. The preferable case is, of course, that the legislature do it. This is an escape clause in case the legislature does not act. If you will look in the model state constitution, if you look in other constitutions, they go into this matter at great length. They would have more than a page, maybe two pages, covering the procedure. The Committee felt that one sentence was worth putting in, to make sure that these boroughs and cities that have the qualifications that are deemed necessary to be a class one city or borough would also have the authority to adopt a home rule charter. If the legislature acts there is nothing to prevent the people then from following the process set up by the legislature. It is only an escape clause which is necessary and has proven necessary through experience in a number of states.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, may I ask Mr. Fischer a question?

PRESIDENT EGAN: If there is no objection.

COOPER: In lieu of the power of the initiative and referendum, how long do you believe the people of Alaska would allow the legislature to go without acting on a question such as this?

V. FISCHER: That is impossible to answer, of course, but we feel that this sentence is necessary and is justified here.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, the Cooper amendment is actually the heart of the question to which I was speaking on, and it seems to me that the Local Government Committee in their home rule have done a very good job as far as the cities of the first class are concerned, and they have provided that they can set up their charter without any legislation, go right down the line and adopt it, but when it comes to we people that live in the small communities, they come down in the next section and say the legislature "may" extend home rule to other classes of boroughs and cities, but they don't say they "shall". They have given the cities of the first class the prerogative to have home rule charter; they have set them up in the constitution to provide for the home rule charter without the legislature acting, but to the people that are in the smaller communities they have given nothing, and they haven't even provided that we will have home rule. They have said that the legislature "may" provide home rule, and with the cities of the first class they have set them up in the constitution to do it. I think the amendment is fine.

V. RIVERS: Point of order. I don't think the argument is germane to the question.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I direct a question to Mr. Fischer or some member of the Committee?

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

JOHNSON: I may have overlooked it but you use the phrase "borough of the first class and city of the first class", and I don't find any definition of what you mean by borough of the first class or city of the first class. Is that in the article or have I just overlooked it?

V. FISCHER: That is not in the article. The article gives the legislature authority to classify, and the assumption is that there will be first-class boroughs as well as first-class cities.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I wish to close. In striking this sentence the legislature would then prescribe what would be a first-, second-, third-, or fourth-class city and also the procedure of the preparation, approval, or rejection of any charters in any type of class cities, and I think the uniform procedure should be established so that there will never be any discrimination in the home rule.

PRESIDENT EGAN: The Chair would like to suggest again if there is a roll call vote that all delegates participate with their view one way or the other.

COGHILL: Roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Cooper be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 12 - Armstrong, Coghill, Collins, Cooper, H. Fischer, Hurley, King, Laws, Peratrovich, R. Rivers, Stewart, Taylor.

Nays: 39 - Awes, Barr, Boswell, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, Kilcher, Lee, Londborg, McCutcheon, McLaughlin, McNeas, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Robertson,

Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh,  
White, Wien, Mr. President.

Absent: 4 - Buckalew, Hilscher, Knight, McNealy.)

CHIEF CLERK: 12 yeas, 39 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of passage. The Chair made an error in speaking of, in asking the delegates to make their wishes known when he referred to roll call. He meant when a voice vote is being called for. Are there other amendments to Section 9? Mr. Kilcher.

KILCHER: Yes, I have a small amendment if I may offer it. On line 24, page 3, that "first class" be stricken and "any organized" be put ahead of the word "borough" so that it may read "the qualified voters of any organized borough".

PRESIDENT EGAN: The word "organized"?

KILCHER: The word "organized" be put ahead of the word "borough" and "of the first class" be stricken, page 3, line 24.

PRESIDENT EGAN: You move the adoption of the proposed amendment, Mr. Kilcher?

KILCHER: Yes.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the proposed amendment. Is there a second?

CHIEF CLERK: I don't understand that.

KILCHER: Strike the words "of the first class" on line 24.

PRESIDENT EGAN: Strike the words "of the first class" on line 24.

CHIEF CLERK: Then it reads "the qualified voters of any borough organized."

KILCHER: And insert the word "organized" in front of the word "borough".

PRESIDENT EGAN: Is there a second to the motion?

HINCKEL: I second the motion.

PRESIDENT EGAN: Mr. Hinckel seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, I think when reading over the original

Article 6 and comparing it with 6/a, that there must have slipped in some small inconsistencies of which I think this is one. As Mr. Fischer said awhile ago, there is an assumption there might be boroughs of the first class, etc., but that assumption, I think, derives from Article 6 which is now abandoned, and there is no other mention in the article of first-class boroughs ahead of this section, but there is mention of organized and unorganized boroughs, so I think to be consistent with the article so far, we should speak here of the "organized borough" on the one hand and of "city of the first class" on the other.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I would like to ask the Committee if you put "organized borough" in line 24, how would a borough become organized in the first place? Doesn't that take a charter to form an organized borough? Section 9, the charter is to organize a borough, isn't that the purpose of it?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: That would be one way or they might adopt two or three options set up by general law. They could be organized either under general law or by charter.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, could I ask somebody on the Committee what the Committee thinks of Mr. Kilcher's proposed amendment?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think I can speak for the Committee that we feel that organizing by a home rule charter should be for the highest advanced in each case, and you may set it up by law, a charter established by law, which would not be to the advantage of maybe your lower classifications. If you should force them to go into a home rule charter in order to organize, it might be that you are discriminating against them rather than helping them along.

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

LONDBORG: In trying to read in this amendment here, I don't suppose, as far as I am personally concerned, that it would hurt the purpose of the whole article; on the next page it says "in the manner provided by law" and they can provide for it then. I can see one point there that was brought up by Mr. Coghill awhile ago. If they are going to classify this on account of population, you may have 50,000 people that are just as capable of home rule as a city of 100,000, but just because they don't have the population wouldn't get to have a home rule

charter, or it might be 5,000. I can see a discrimination there when we don't know what the legislature is going to set up for standards of the first class.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I might go a step further on that in explaining the reasons for using "first class" after borough. When boroughs will first be established it will be a new form of government to Alaska. It was, in part, the Committee's thinking that when they are first established there may be no first-class boroughs until, say for a few years, until they have organized to the point where they have assumed basic functions and you may put it in terms of learning how to operate as a government. Then the legislature may provide for a reclassification or there may be an automatic reclassification into first-class boroughs and then they would be able to adopt home rule charters rather than automatically opening the way up to the adoption of home rule charters before the people of a particular borough know exactly what the form of government is that is being imposed upon them.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am still a little confused on this. Mr. Rosswog in answering a question a minute ago, if I understood you correctly, you said that the Committee did not want to force a borough to adopt a charter in order to become organized. It doesn't seem to me that this amendment does that. It merely says that an organized borough may adopt a charter, but the borough could become organized without adopting a charter even should this amendment carry. Isn't that correct?

ROSSWOG: Yes, except that it states here that they may adopt a home rule charter which is set up by their own commission.

WHITE: I meant to say home rule charter -- so if the Committee opposes this amendment we must assume that the Committee doesn't feel that a borough of less than the first class should, in any event, be able to adopt a home rule charter?

ROSSWOG: Yes, unless the legislature should provide as in the next section.

WHITE: I see. But it does seem to me that this particular amendment is getting at what Mr. Cooper had in mind with his amendment earlier.

KILCHER: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor



KILCHER: Roll call, Mr. President.

PRESIDENT EGAN: The Chief Clerk will call the roll.

RILEY: Mr. President, I missed the debate and wish to announce I am abstaining from voting.

PRESIDENT EGAN: The Chief Clerk will call the roll on the amendment.

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

Yeas: 12 - Coghill, Cooper, H. Fischer, Hurley, Kilcher, Londborg, Marston, Peratrovich, Smith, Stewart, Taylor, White.

Nays: 37 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, King, Laws, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 5 - Buckalew, Hilscher, Knight, McNealy, VanderLeest.

Abstaining: 1 - Riley.)

CHIEF CLERK: 12 yeas, 37 nays, 5 absent and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: Mr. President, may I address a question to the Committee?

PRESIDENT EGAN: If there is no objection.

ROBERTSON: In line 3, on page 4, in the sentence that was the subject of Mr. Cooper's amendment, I would like to ask, do the words "of the first class" -- are they intended to modify "borough" as well as "city"?

V. FISCHER: Yes.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, pursuing the same thought that Mr. Robertson had, I find on page 2, the first paragraph, that the "legislature shall classify boroughs and provide the methods by which they are organized, incorporated, etc." I can't find anything in here which says the legislature shall classify

cities; it may be here but I can't find it.

V. FISCHER: The Section 8, page 3, lines 21 and 22.

R. RIVERS: Oh yes, "or classified". Thank you.

PRESIDENT EGAN: Are there other amendments to Section 9? Mr. Hinckel.

HINCKEL: I would like to ask a question of the Committee. It is not quite clear in my mind yet as to why it is necessary to say in Section 9, line 24, "borough of the first class". Would it not be possible just to say that qualified voters of any borough or of any city of the first class may adopt, etc. Is it absolutely necessary that you qualify it?

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

V. FISCHER: Yes, it is quite necessary because the purpose of a system of classification to start with is to separate communities or areas of varying sizes and economic means according to their ability to support government. The legislature and the constitutions generally, then, confer powers upon such units of government according to the class into which they fall rather than devolving the same powers upon all the various classes; just as we now have three classes of cities in Alaska, each with a different scope of power and authority.

HINCKEL: May I ask another question, please?

PRESIDENT EGAN: Yes.

HINCKEL: If the borough or community felt that they were capable of self-government and wished to adopt a charter, shouldn't they be permitted to go through the form at least requesting that their charter be approved? It might not be that the legislature would get around to classifying them in this group of first-class communities which would permit them to do this, and I feel that unless you can show me otherwise that it might be very possible, as time went on, that the legislature might be a little lax and the community might advance to the point that they were willing and ready to assume these obligations before somebody got around to saying that they were classified.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, there is no motion before the floor. We are hearing an argument on a point that has been discussed at least four different times during the past two days. There has been no attempt apparently to take any amendment before the Committee on this matter. I think we are going too far, and if we are not violating our express rule, we are certainly violating the tenor of the rule.

PRESIDENT EGAN: The Chair felt Mr. Hinckel was going to ask a question on that matter.

HINCKEL: I am not quite as smart as Mr. Hellenthal is, and I was asking a question, and it just did not soak in, possibly as fast as it did in his mind. It is not clear in my mind yet, and I am still asking the question of the Committee, and I would like an answer.

V. FISCHER: The Committee had in mind all the way through that local governments are not to be divorced from the state, that the state will exercise a certain amount of interest as well as control over the affairs of local governments. That was one of the underlying reasons that a provision has been included for an agency within the executive which can help and keep track of these matters. Now, when it comes to a community that reaches a level where home rule can be exercised as it grows, the general method of classifying communities, be they just small areas or large, is that certain standards are set up, population possibly, assessment, area inclusion, and then as a city reaches a larger population class, it can automatically go from one class to the other so that there would be no dampening effect upon the community's powers even if it grew.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I address a question to Mr. Fischer?

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

JOHNSON: In Section 3, Mr. Fischer, which provides for the classification of boroughs among other things, your direction to the legislature seems to be mandatory since you say "The legislature shall classify boroughs." Now in Section 8, which you cited a moment ago with respect to classifying cities, I notice you used the word "may" which indicates a permissive regulation. Was there any reason for differentiating between them?

V. FISCHER: No, there was no intentional differentiation between the two. Insofar as classification is concerned, we want to be sure that boroughs are classified. Cities are classified already.

PRESIDENT EGAN: Mr. White.

WHITE: I am still not satisfied on this either.

PRESIDENT EGAN: Is there an amendment to be offered?

WHITE: No, I want to ask a question, Mr. President, of the Committee.

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

WHITE: It appears to me that what is bothering people here is the fact that there may be boroughs of less than the first class which may desire or may be entitled to some measure of home rule, but apparently under this section they can't get it. Now, the provision is made for classifying boroughs as cities and if I understood you correctly, Mr. Fischer, you just mentioned population, assessment, and areas as some of the matters that might be taken into consideration. However, these are all quantitative factors so that it appears that a borough will have to grow in population, or grow in total assessed valuation, or grow in area before it is able to rise from one class to the next. Now, in listening to the discussion, it appears to me what is bothering people is that there may be boroughs of a lower quantitative standing in these matters which is, although small, still well able to assume some measure of home rule. Now, did the Committee ever take into consideration the fact that home rule might be extended to individual boroughs within a class without extending it to the whole class?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: No, we have not and in Section 10, we do, however, provide that the legislature may extend home rule to other classes of boroughs and cities but not by special legislation.

PRESIDENT EGAN: Are there amendments to Section 9 or 10? Mr. Kilcher.

KILCHER: If I may ask a question which will kill the necessity of making an amendment, Mr. Fischer, who sets up the class standards for cities and boroughs? The legislature?

V. FISCHER: Yes, the legislature.

KILCHER: Then, Mr. President, I have an amendment. Section 9, page 3, strike on line 24 "of the first class", and on line 25, also, "of the first class", so that it will read: "the qualified voters of any borough or city may adopt".

PRESIDENT EGAN: What was the previous amendment on that?

CHIEF CLERK: It was to strike "of the first class" on line 24 and insert "organized" before "borough".

PRESIDENT EGAN: Mr. Kilcher, what is your pleasure regarding this?

KILCHER: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the amendment. Is there a second?

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, since the legislature has yet to set up the classes for cities as well as boroughs, and since the legislature, as it says on page 4, line 1, will provide by law, the legislature or initiative will set up the home rule charter provisions; since we have no classes the legislature has to establish them, why not let the legislature set up the whole system. Let the legislature decide what the first-, second-, or third-class city or borough consists of, what specifications it has to meet and then in what case they should get home rule charter or not. This article is the framework. It establishes principal rules that the borough should be a combination of city and borough. The city, it says is a part of the borough, which is a very good idea; it also gives in Section 1, the general principles by which a borough should be established, and the rest I think should purely be left up to the legislature.

PRESIDENT EGAN: Is there further discussion?

MCCUTCHEON: Question.

PRESIDENT EGAN: If not, the question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Coghill.

COGHILL: Mr. President, I have an amendment.

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

CHIEF CLERK: "Section 10, page 4, line 13, change 'may' to 'shall'.

COGHILL: Mr. President, I move for the adoption of this amendment.

PRESIDENT EGAN: Mr. Coghill moves the adoption of the proposed amendment.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Coghill.

COGHILL: Mr. President, I know that this is hopping from Section 9 to Section 10. However, it is providing that the legislature "shall" extend home rule to other classes of boroughs

and cities. If the borough is entitled to home rule, they will be organized; if a city is entitled to home rule it will be organized, and I believe that this will assure the small communities of some sort of a home rule charter. It can be limited, that the legislature will do the extending; they will make the provisions, and I believe that this here will solve the problems that we of the small communities are concerned with here in the Convention.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to speak on this. I think there should be discretion left to the legislature, that it should have some control over our local government. I don't think that the delegates realize that possibly under home rule chartering a lot of local government is given to the community or the city or the borough, and they could set up as many officers as they wanted to under their charter and there should be some supervision so that they would not go overboard. I think myself that the word "may" gives the right that the legislature can decide if they are ready for it, but there should be some supervision over them.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "yes", all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 12 - Coghill, Collins, Cooper, H. Fischer, Harris, Hurley, Johnson, Laws, Peratrovich, Reader, Taylor, White.

Nays: 35 - Armstrong, Awes, Boswell, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Kilcher, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 8 - Barr, Buckalew, Hilscher, Knight, Londborg, McNealy, Sundborg, VanderLeest.)

CHIEF CLERK: 12 yeas, 35 nays, and 8 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments for Sections 9 or 10? If not, are there amendments for Section 11? For Section 12?

CHIEF CLERK: I have a committee amendment.

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

CHIEF CLERK: "Section 12, page 4, line 20, after the word 'commission' insert the words 'in the executive branch'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to move and ask unanimous consent that this amendment be adopted.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection? The Chief Clerk will read the proposed amendment once again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there objection to the proposed amendment?

KILCHER: Objection.

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

R. RIVERS: I second the motion.

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

KILCHER: I would like to have the Committee explain its change in its stand.

PRESIDENT EGAN: Mr. Rosswog, would you care to explain?

ROSSWOG: I think it was in the discussion yesterday, Mr. Chairman, and it was felt that by asking for a boundary commission which we thought was very necessary in establishing your local government boundaries that it should be under some branch of the government and it should necessarily be under the executive branch.

PRESIDENT EGAN: Is there still objection?

KILCHER: No.

TAYLOR: May I ask a question? Mr. Rosswog, is that local boundaries commission, is that a commission organized in each borough?

ROSSWOG: No.

TAYLOR: A state commission?

ROSSWOG: It would be statewide because you could not leave it just to the local unit to set up its own boundaries. There should be some supervision or someone setting them up.

TAYLOR: Then one other question, in line 22, the article says, "The commission may consider any proposed boundary." That would necessarily imply that that is a proposed borough boundary, is that right?

ROSSWOG: There is an amendment in local government.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to ask the Committee a question. Does this commission in the executive branch that they have pointed out now, was there consideration given to the fact that that could be an additional duty of the apportionment board?

ROSSWOG: Yes.

COOPER: And that is what you have in mind?

ROSSWOG: Yes, we have in mind that it could be combined with some other --

COOPER: Yes. Then, would the words, "The legislature shall establish" -- would that have anything to do with it because the apportionment board now would be established by the governor?

ROSSWOG: My belief is that they could designate the same board if they wished or one might be appointed by the governor.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question of Mr. Rosswog.

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

R. RIVERS: The way this would read that "The legislature shall establish a local boundary commission in the executive branch and regulate its activities." It sounds as though the commission is going to regulate the activities of the executive branch. What you should say is, "The legislature shall establish within the executive branch a local boundary commission." So, I would ask you if there is any objection to changing your language over to the front of line 20 instead of where it is now and saying "within the executive branch".

HELLENTHAL: What is wrong with having the executive control the



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executive?

COOPER: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will have a one-minute recess.

RECESS

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

COOPER: Mr. President, I would like to ask for the floor on a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Cooper, you may have the floor on a point of personal privilege.

(Mr. Cooper spoke on a matter of personal privilege.)

PRESIDENT EGAN: Are there amendments for Section 9 or 10? Sections 11 or 12? Do you have an amendment for Section 12?

CHIEF CLERK: It has not been acted on yet.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think I can safely say that the question brought up by Mr. Rivers can be handled by Style and Drafting.

R. RIVERS: I so consent.

PRESIDENT EGAN: Mr. White.

WHITE: I want to ask a question of the Committee. In answer to a previous question, I believe you stated that the Committee took into account that this could become a part of the apportionment board set up in another article. I was wondering if the use of the word "commission" here would preclude that. In the apportionment article it says, "There shall be a nonpartisan board of reapportionment."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I believe that it would not stop them from being the same commission, but I did not think at this time that we should tie them up together, forcing them to be the same board. It should be left to a decision at the time because this local boundary question will be a very controversial question and will need a lot of study to set it up, and even with these words they could be grouped together if it was found necessary.

WHITE: Mr. President, in the resources article we had quite a discussion on the difference between a commission and other types of regulatory boards, and it occurred to me that using the word "commission" here means something entirely different than using the word "board". I didn't mean to suggest that they be forced to be one and the same.

PRESIDENT EGAN: Is there further discussion on the proposed amendment?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 4, lines 20 and 21, Section 12, insert the words 'in the executive branch' after the word 'commission'."

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. The Convention will come to order. Mr. White.

WHITE: Mr. President, I haven't had time to write this out but I have an amendment to Section 12, line 20, after the word "commission" insert "or board".

HELLENTHAL: Do you ask unanimous consent?

WHITE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Line 20, page 4, after the word 'commission' insert the words 'or board'."

PRESIDENT EGAN: Is there objection? Mr. Nerland.

NERLAND: Mr. White, would you also include that same wording on line 21?

WHITE: Yes, I certainly would.

PRESIDENT EGAN: If there is no objection that will become a part of the amendment. Is there objection to the unanimous consent request for the adoption of the proposed amendment?

TAYLOR: I object.

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

WHITE: I so move.

PRESIDENT EGAN: Mr. White so moves

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. The motion is open for discussion. Mr. Coghill.

COGHILL: Mr. Chairman, I believe the motion should also be extended to the word "commission" on the following page, page 5, line 3.

PRESIDENT EGAN: Is that acceptable to the maker of the proposed amendment?

WHITE: It is acceptable.

PRESIDENT EGAN: Is there objection? Hearing none that will become a part of the proposed amendment. Mr. Kilcher.

KILCHER: May I ask a question? Would you think a commission or board could also be called an agency?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think the word "agency" would cover all types of boards, commissions, boroughs and other things.

KILCHER: I would like to ask Mr. White, in that case, if you might not substitute both for "commission" and board [the word] "agency", because in Section 14 we have also provision for an agency in the executive, which may well end by being the same agency.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, in answer to your question, this is as far as I intended to go, Mr. Kilcher, merely because the Committee said that they took into consideration that this organization might be combined with the apportionment board, and the word used in the apportionment article is "board".

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as it is before us at the present time.

CHIEF CLERK: "Section 12, page 4, lines 20 and 21, page 5, line 3, insert the words 'or board' after the word 'commission'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All

those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hinckel.

HINCKEL: May I ask another question?

PRESIDENT EGAN: You may ask your question if there is no objection, Mr. Hinckel.

HINCKEL: Did I overlook a discussion on how this legislature was going to regulate this executive branch board or has that been answered?

PRESIDENT EGAN: Could the Committee answer that question?

HINCKEL: I thought there were two separate branches.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: The way it reads the legislature would establish it; it would be contained within the executive; and the legislature would regulate it; but the intent was, and I speak for the whole board, the intent was that the legislature would establish such a board or commission by law and it would function and lie within the executive department to more or less direct and regulate its activities. That was the intent. I can see here, as I saw it before you mentioned it, the dual possible interpretation, and I hope that this will be noted for the benefit of Style and Drafting Committee.

PRESIDENT EGAN: Are there other amendments to Section 12.

HURLEY: I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. Hurley.

CHIEF CLERK: "Section 12, line 25, page 4, strike the words 'at the end of' and line 1, page 5, strike 'the session unless disapproved,' and insert therefor the words 'when approved'."

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment. Is there a second to the motion?

RILEY: I second the motion.

PRESIDENT EGAN: Mr. Riley seconds the motion. Is there discussion of the proposed amendment? Mr. Hurley.

HURLEY: Mr. President, I detect a sleepy feeling on some of the parts of the delegates on this matter, but I think this is

a crucial one and one of which I recognize there are good arguments on both sides, but I feel that I should bring the amendment before the group to determine what the feeling of the group is. There is a very distinct difference between the wording as it was before and the wording as it is now. At least, I intend that there be a distinct difference. The wording as it was before was a self-executing proposition where the board made a recommendation and if the legislature didn't by resolution accept it, it became law. Now, I am reactionary enough, I guess, to think that is kind of a bad thing. I can recognize also that the matter of swapping around local government boundaries is a tough proposition and one that is hard to get through if it is going to affect somebody's constituents. Still, at the same time, it occurs to me that the initiative should come from the legislature in passing the law, and that I am very much afraid that we will have a rule by a boundary commission rather than by the legislature where silence means acquiescence, and it occurs to me that it would be much better that if the boundary commission were also charged with the duty of explaining their project to the legislators and getting their support in putting it into effect, by passing the bill of their own initiative through the channels of the Congress.

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

DOOGAN: I am going to take exception to Mr. Hurley's remarks. The reason that it was put in like this was that many times between local government areas they will, by agreement, make boundary changes. These changes, as it is written of necessity, must have the approval of the commission and then again must be presented to the legislature. In all cases, any changes that are made must be submitted to the legislature but in the press of business in the legislature sometimes they may not get around to consider such little things as a minor boundary change, and it isn't the intent of this ordinance that any of these minor boundary changes take up much time of the legislature. Anything that becomes a major change is, of necessity, going to take up plenty of time.

PRESIDENT EGAN: Mr. Gray.

GRAY: I wish to speak against the amendment. This is going to kind of hurt a lot of local home rule because you find that people with their own problems are not interested in your particular problem. The adjustment of a boundary may be very important to a little place like Livengood, but it would be lost in the midst of the great affairs of appropriations, and I can see very well where this little boundary adjustment will go from session to session and not because it would be approved, but because they won't have the time to make it approved. Now, if one of these adjustments are wrong, then it will be disapproved, but I would guarantee, I won't live that long, but I will guarantee that 99 per cent of these little boundary adjustments will be O.K.'d just because they are not disapproved.

Otherwise, they will be held up. I really think that this amendment will do more harm than it will do good.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: It seems like you are taking the negative approach to an enactment of legislation. In this way you are approving or passing something without any action at all by the body that should act on it. That is the legislature. I, for one, am in favor of the amendment because I have not yet, in the number of times I have been in the legislature seen that you can enact legislation by inaction, and I think Mr. Hurley's amendment is all right. I didn't get it all, but I think it should be amended to read that any such change shall not become effective unless approved by a resolution concurred in by a majority of all the residents. Mr. Gray says he would guarantee that no minor boundary changes would ever be taken up by the legislature. If they are so minor that the legislature wouldn't even consider a resolution that might be introduced by some member of the legislature from the locality or from the borough, or from the election district in which it is located, it certainly must be a minor matter if they don't want to force it, and all it would need would be a report from the boundary commission. So, I don't think his argument is sound, I don't believe we should enact legislation by inaction, by not doing something; I think we should take the affirmative action.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe we did exactly the same thing and provided the same method of adoption of what amounts to law in the case of the judiciary article where we said that the supreme court may draw up all the rules of procedure, etc., and unless rejected by the legislature they shall become the law, and we did the same thing as I recall in the executive article where we said that the governor may regroup the agencies and assign them any way he wants to and unless rejected by the legislature that has the force of law. There isn't anything novel to this, and I believe it is all right the way it came out of the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to point out to Mr. Sundborg that in the case of the executive and the judiciary, it's a matter of general readjustments. This is a matter of specific legislation. Quite a difference. In other words, I think this is the next best thing to the referendum of the people. They have at least a voice in it through representatives. It is a special case and not a general adjustment to come under the major departments so I think there is a difference there, and I am in favor of the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 17 - Armstrong, Boswell, Coghill, H. Fischer, Hermann, Hurley, Johnson, Kilcher, Laws, Londborg, Nolan, Peratrovich, Reader, Riley, Taylor, Walsh, Mr. President.

Nays: 32 - Awes, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hinckel, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, White, Wien.

Absent: 6 - Barr, Buckalew, Hilscher, Knight, McNealy, VanderLeest.)

LONDBORG: Mr. President, may I change my vote to "yes"?

PRESIDENT EGAN: Mr. Londborg changes his vote to "yes".

CHIEF CLERK: 17 yeas, 32 nays and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Gray.

GRAY: I move we recess until 3:50.

PRESIDENT EGAN: Before we put the motion, the Chair would like to announce a luncheon meeting of all committee chairmen tomorrow afternoon at 12:30 in the luncheon room upstairs. Mr. Coghill.

COGHILL: If we may revert to committee announcements, that the Committee on Administration will have a dinner meeting this evening in the dining hall upstairs.

PRESIDENT EGAN: The Committee on Administration will have a dinner meeting this evening. If there is no objection the Convention will stand at recess until 3:55.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 12 or 13? Is there a proposed amendment for Section 10?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment for Section 10.

CHIEF CLERK: "Page 4, line 14. Strike the words, 'classes of'."

WHITE: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. White moves the adoption of the amendment.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Is it your amendment, Mr. White?

WHITE: Yes.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it seems to me that this amendment might solve a lot of the problems that have arisen here and then shown in other amendments that have been offered. In starting their presentation the Committee on Local Government pointed out that we have here a golden opportunity to set up a brand new system of local government that we have never had before. It put forth as one of its cornerstones the extension of as much local government as possible to all people throughout the future State of Alaska, which certainly is an admirable aim. Now, it appears to me that the questions that have arisen here have come about because when you classify boroughs, or cities, you almost have to classify them according to quantitative standards -- standards of population, standards of total assessed valuation, standards of area, or other quantitative standards. With that as background it may well be that we will have a city or a borough of small population that cannot rise from one class to the next, but may well have a well-integrated and healthy economy and may be well entitled to some measure of home rule. So, if this amendment is adopted, Section 10 would read: "The legislature may extend home rule to other boroughs and cities," which would mean that a deserving borough or a city, let's say, within the second class, would at least be eligible for some measure of home rule should its economy and population -- type of population and type of economy -- warrant it. I think there can be no objection to this provision, at least there is none that I can see, where the legislature retains the power of decision, the basic power of decision. Now, it might be said that this would be in the nature of local or special legislation. I would call your attention to Section 18 of the legislative article which says: "The legislature shall pass no local or special act in any case where a general act can be made applicable and whether a general act can be made applicable shall be



a matter for judicial determination." It seems to me that here is a pure case where special legislation might well be appropriate. In any event the court could pass on whether it would be appropriate or not. This would merely leave the way open to the extension of home rule to a borough or a city of less than the first class, should such extension be proper and appropriate. Now, most of us live in larger cities, but I hope that this, leaving the door open for the smaller cities will receive serious consideration.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I had hoped that I for one of the Committee, wouldn't have the need to speak on the matter of the word "classes". This motion is to strike the word "classes". Now, early in the history of the Territory the legislature selected and adopted the idea of using cities of different classes -- one, two, and three. I think they did wisely because in the states you have had this problem where in individual states they have adopted the titles of cities, towns, and villages, and at one time a city or a community would incorporate as a village and it might grow up bigger than the town next door to it and still be a village; or the town may adopt the terminology of town and grow bigger than the city next to it, or in one state you had cities of one classification and villages of another. We have tried to keep within the bounds and the limits of the idea of a classification of one group rather than the terminology of many groups; that is the reason why we have tried to stress the idea that the classification system of boroughs and cities would continue. Now, I cannot agree with Mr. White that we will have this problem of not being able to visualize in the boroughs because of the size of the population, the difference in what classification they should be entitled to. I can visualize rather a small area of a borough that is rather heavily populated and potentially wealthy being a borough of the first class, as well as I could also visualize a borough, we will say, out in a rural area that has quite a substantial population, rather scattered, with a large area, still being a borough of the first class. I wanted to amplify just a bit further the thinking as I visualize it on boroughs. We have a country that is potentially wealthy in raw material and I can readily see that if some of these materials are brought into production in the form of coal, gas, and oil, other minerals, radioactive metals, those things; that, as those are separated from the state patrimony that they will leave a certain residual royalty or severance tax as you may wish, to call, which will go into the state treasury, will probably some portion of it, revert to the area from which it came. I can visualize very wealthy semirural types of boroughs here, but I don't see why the legislature in its wisdom in all probability would set up limitations on classes, such that boroughs that were potentially wealthy and fully entitled to home rule could not get it; so I oppose this amendment. I want

to say further that the concept of home rule as we mention it here is not the idea of a borough incorporated in the first class under general law or a city under the same means, it is the idea of the borough sitting down, or the city sitting down, and drawing its own constitution which they call a charter as we visualize it here, and as we are sitting here in this Constitutional Convention. I agree with the secretary of this Committee, Victor Fischer, that in order to achieve that purpose of best adopting a charter they should have some background of experience in operating the form of government they are going to adopt, and know what is best to write into their charter; so it will give them the best opportunity to get the best for their purposes with the least amount of later amendments. I favor holding the word "classes" as we have adopted it.

PRESIDENT EGAN: Mr. White.

WHITE: I'd like to close just briefly, Mr. President. There is no intent here through this amendment to eliminate the idea of establishing classes for boroughs or cities. The only intent here is to make it possible to extend home rule should the legislature or appropriate boards see fit -- to a borough or a city in the class less than the first class should that borough or city have an economy that would entitle it to it. It's merely to allow an exception to the rigidity of the class system here where home rule is under consideration. Now, it may well be that we could have a borough or a city, small in population, that because of the standards of classification that have been set up cannot rise from the second -- let us say to the first class, but it might have a very well-integrated and healthy economy. It may well have a long background of experience but it will not be able under this section, unless amended, it would not be able to have home rule because it couldn't rise to the first class on account of population or other factors.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 10, 11, 12, or 13? Are there amendments to Section 14? Mr. Hurley.

HURLEY: Mr. President, I would like to ask a question. What happened to line 18, provisions "shall" or provisions "may"?

UNIDENTIFIED DELEGATE: "Shall".

HURLEY: Provisions "may", is that the way it should read?

CHIEF CLERK: No, "shall".

PRESIDENT EGAN: Are there amendments to Section 14?

TAYLOR: Mr. President?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I'd like to propose a question to the Chairman of the Committee if I may?

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

TAYLOR: Mr. Rosswog, here recently we had a setting up of a board or a commission first, and then you broadened it to a board, and I see now it has provisions made for an agency. Now, is this the same agency, board, or commission that you were talking about before?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, if I may answer Mr. Taylor. We felt that it was not necessarily the same agency, that this agency was to assist and help the local government units, and could possibly be in some other department of the executive branch, but would be a continuing agency where the boundary commission or board would possibly be set up and work just at certain times; that they have two separate functions, and they could be possibly combined but not necessarily.

TAYLOR: Well, wouldn't it be all right then if we amended this by having an agency, board, or commission so that they could all be used -- the same one, the same board could be used?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I don't know whether I speak for the entire Committee, but I think I do. We went over this quite thoroughly and I think, and most of the Committee thinks, that the success of this plan of local government lies largely in its being coordinated with the balance of the state government, and as you will notice the powers of this board are to render assistance and advice; to collect and publish information relating to local government on a statewide basis; review the activities of local government, and perform such other duties as may be prescribed by law. We have not in our constitution a set tax limitation upon the bonded or indebtedness of the entire state, nor in our local government have we said to any local government, "You may bond yourself only to 10 per cent of your assessed evaluation." But, in the proper approach to it there must be some coordination between state and local government, and in order to properly represent the state in the matter of local government affairs it is proven to be a fact in the states and in other countries that some sort of a rural and urban administrator who would sit and advise with them as to what their debt burden and obligations should be, based upon their total assets or resources. Things of that nature were of vital

importance in a government of this kind where we do not establish these debt ceilings and that is one of the functions along with the organizing and establishing of the governments -- the local governments -- and the changing of classifications and other things which they would be advised by this agency. I hope that I have answered, in part, your question.

PRESIDENT EGAN: Are you offering an amendment?

TAYLOR: No, I'm not offering an amendment.

PRESIDENT EGAN: Are there amendments to Section 14? Mr. Coghill.

COGHILL: I'd like to ask the Committee a question.

PRESIDENT EGAN: If there is no objection.

COGHILL: Is it the intent of the Committee, Mr. Rosswog, that this provision, Section 14, will set up more or less of a clearing house in the executive department for the League of Alaskan Cities, or such things as that?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, I'm sure that that wasn't the intention of the Committee. It would be an agency that would be of assistance and as we now have laws of the Territory concerning cities, why they would probably suggest it and direct it.

COGHILL: As I read it then, if I may, Mr. President?

PRESIDENT EGAN: You may read it.

COGHILL: As I read it then the assistance and advice to local governments and their charter drafting agencies, that local governments could mean any type of or any particular section of their government?

ROSSWOG: Well, it could be your cities, your boroughs, or even your service districts.

COGHILL: Would it then be the same thing as our Legislative Council, in lots of respects as far as agencies? I'm trying to clarify the point, Mr. Rosswog, as to just the intent of the Committee as to the function of this government agency. Will they be available to the health, welfare, education, municipal leagues of a borough, or a city?

ROSSWOG: Well, it would depend upon the law of what their duties would be. We could not say now that they should advise every district or every section of the local government. I believe you have a Department of Health, a Department of

Education, and those things set up and they certainly would not be stepping in on that.

COGHILL: You think then it's legislative material?

ROSSWOG: Not necessarily legislative material. It would be more in directing and helping the local governments like the cities and boroughs, such as in drafting charters, that is not an easy job to take on, and they would have to help out in that and possibly in many other ways in directing your local governments.

PRESIDENT EGAN: Are there amendments to Section 14? If not, are there amendments to Section 15? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question which I think needs to be asked here for the purpose of clearing our record. It was mentioned when we were discussing Section 12, that there was a possibility that the same commission or board could establish local boundaries as would serve as a board of apportionment, and I would like to ask the question, since this says that the legislature "shall" establish a local boundary commission and since my recollection of the apportionment article was that the board of apportionment should be appointed by the governor with no hand in its creation, appointment, or confirmation by the legislature; whether there is any possibility that the legislature could get its hands on the apportionment board by trying to combine the activities of the two boards. I direct that question either to the Chairman of the Committee on Local Government or to the Chairman of the Committee on Apportionment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I think there is a very great possibility of it in the composition of the board as set up.

SUNDBORG: Mr. Hellenthal, wasn't it clear in the language of our apportionment article that the board of apportionment would be appointed by the governor and that there was no manner, at least in the wording of that article, by which the legislature could touch it in any way?

HELLENTHAL: That is correct.

SUNDBORG: Now, you fear that through something we may have written in here, in the local government article, that we may be opening the way for the legislature to get hold of the apportionment board?

HELLENTHAL: It is possible if the two boards were combined; although not probable, I say a possibility of it. You catch me by surprise. I haven't thought of this question as you see it.

SUNDBORG: We certainly don't want the legislature to be saying how the state should be apportioned for purposes of electing legislators, do we?

HELLENTHAL: Frankly, I think that there is a chance -- say that the legislature determined and passed a law to the effect that the boundary board would be combined with the apportionment board, it might very well be that the apportionment board could go to court and resist that attempt because it seems to be the clear intent of the apportionment article that they be left alone, but I don't think that is a very desirable situation to create.

SUNDBORG: If the legislature should do such a thing as you suggest, and say that the boundary board should be combined with the apportionment board, wouldn't there still be a constitutional provision in the apportionment article which says that the members of that board have to be appointed by the governor?

HELLENTHAL: That is correct.

SUNDBORG: And that there is no provision anywhere for the members of that board to be confirmed by the legislature or controlled by the legislature in any manner?

HELLENTHAL: That was studiously avoided by the delegates.

SUNDBORG: Thank you.

PRESIDENT EGAN: Are there other amendments or discussion, for the record, relative to the intent? Mr. Taylor.

TAYLOR: Mr. President, I have an amendment to Section 5, I believe, on that -- it's the amended section.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 5, as amended, line 7, strike the words 'from and'."

PRESIDENT EGAN: What is your pleasure, Mr. Taylor?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. Is there a discussion? Mr. Taylor.

TAYLOR: The reason for that amendment, Mr. President, is the fact that all persons living in a borough should have a right to run for the assembly -- the borough assembly -- irrespective of the fact that some of the assembly members will be members only by virtue of the fact that they are councilmen of the city or of cities in that borough. So, it is a discrimination, I think, against the residents of the borough, of any resident of the borough from being a candidate for the assembly. Another reason is that it may be that the people in an area outside of the city may prefer some person or persons not living in that particular area, or not living outside of the city or cities of the borough, to represent them in the assembly. For that reason I believe that the citizens -- any citizen -- except members of the council, should be allowed to run for the assembly and that the people residing outside of the city should be allowed the right to choose who they want to represent them in the assembly. Mr. Hellenthal.

HELLENTHAL: Mr. President, may I ask a question of Mr. Rosswog?

PRESIDENT EGAN: You may ask a question, Mr. Hellenthal.

HELLENTHAL: Mr. Rosswog, I understand that this amendment has the support of the Committee?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, excuse me, Mr. Hellenthal, but could I have this amendment read again? I didn't have a copy at the time.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Line 7, Section 5, is amended, strike the words 'from and'."

TAYLOR: Read it as it would be then.

CHIEF CLERK: "The composition of the assembly shall be established in accordance with law or charter, provided that each city of the first class and each city of any other class designated by law shall be represented by one or more persons who shall be members of its city council and that the additional members of the assembly shall be elected by the qualified voters living outside such cities."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, this amendment was discussed with the Committee and we decided that the members should vote as they saw fit because the suggestion was made that possibly the members outside of the city would want to elect someone inside

as long as only the qualified electors outside were voting on the man, and we left it open to each member.

PRESIDENT EGAN: The question is -- Mr. Hurley?

HURLEY: Mr. President, this is, in my opinion, a last blow to rural residents. Now, I recognize that it wasn't introduced for that purpose, in fact the way I read it -- the way it is now -- if we should strike from there, it looks to me like only the people, the qualified voters outside of the city are going to elect the people from inside the city. I don't think that is what they intend, but that is what it seems to my way of thinking, but aside from that the statement has been made that, and as far as I can see the whole basis for this amendment is that there might be some person or resident inside of the city whom the people outside of the city want to vote for for the borough assembly. Well, I think that probably can be true. It can also be said the same thing of our election districts under our apportionment schedule. I might have somebody over in Valdez I'd like to vote for too, but I can't do it, I've got an election district there. What I'm trying to do is to guarantee that a candidate will be put up for that assembly from outside of the incorporated city. Now, I think we can find satisfactory candidates outside of the city to put up for this borough assembly. Now, I also recognize that the people inside of the city should have a right to elect people to this borough council, but bear at it from a different angle. You folks worry about the city, I've got to worry about the people outside of the city, and if this amendment is adopted, in my opinion, it puts a very difficult situation in front of those people. Now, it is true, and I'll admit that, if we have a benevolent legislature that is interested in these problems, as I am sure they will be, they can provide that candidates can file from any place they want to -- outside or inside -- if this amendment is adopted. But, it is also true that if we have made an exception here in the case of cities where we say they are guaranteed one, I think we should do the same thing outside, and say that you folks outside are guaranteed one, too. Now, I think this amendment should be defeated, I don't think it is going to help anything except a possible situation where all the people outside don't have anybody to run for that assembly that they want to vote for so they want to go inside the city and take a resident there and say, "You are our boy, we'll elect you to this council." But, I think they will find them outside, and I think it ought to stay just the way it is.

PRESIDENT EGAN: Mr. Davis.

DAVIS: This amendment, to me, Mr. President, points up one of the defects in this thing. We are going to have a borough, but the members on that borough are going to be representing interests and not the borough. We are going to have people there that are there for the specific purpose of representing the city.



We are going to have other people that are there for the specific purpose of representing the people outside of the city. Besides that we are going -- unless this amendment is adopted -- we are going to make it still worse by saying that only people from outside of the city can run for representation outside of the city -- no matter what the voters outside might want. Now, it seems to me that there certainly shouldn't be any harm in letting the people who are going to vote outside of the city pick whoever they may want, whether he lives in the city or lives out.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I brought up the opposite of that. If a man moves outside of the city -- across the boundary line -- he might still have his business in the city, he might still be interested in the city, but I am informed that the law states that he can't be a member of the city council because he doesn't live in the city. He might be just as interested in the city as anyone else. Well, I feel the same way. I think that if it is good to make a law that way then it is good to say in an election that Juneau can't elect someone from Anchorage to be a senator for them or something of that nature, we ought to provide for a little security for the outside of the city area, as far as our borough is concerned and if the day comes when there isn't anybody that will represent the assembly, there isn't anybody to run, then they'd better leave it in an unorganized state, but if they are ready to be part of an organized borough they are certainly entitled to representation. If we adopt this amendment then you can see maybe seven out of the borough assembly will be from the city as probably council members, as they are in Baton Rouge, and then if the other two are also people from within the city you have a one-sided affair entirely. This is to insure some representation by the people and for the people outside of the incorporated cities and the boroughs.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I ask somebody on the Committee a question? We went to a great deal of trouble, Mr. Hellenthal's committee, to establish a method of apportioning representation. Can't that be -- that's on a Territorial level -- can't that be done at local government level so that everybody has a fair share according to numbers?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, we suppose and hope that the legislature in setting up the general laws will do that and further than that, in setting up the home rule charters where such are set up, that that will be taken care of also.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'd like to speak against the amendment. I might answer Mr. Metcalf's question by saying that setting up a system of apportionment doesn't enter into this question at all. As the section now stands it's a residence clause for candidates within these service areas, outside the city. If you live in service area number 1 -- I mean if the people are going to elect a representative on the assembly from service area number 1 they have got to elect someone who resides in their service area; likewise, with service area number 2 and service area number 2. If you delete the words "from and," as Mr. Taylor suggests, then the people that are in service district number 2 could decide that they want to elect a high-powered lawyer in the city, or something like that. They don't lose any part of their representation; they simply have the privilege of reaching out and electing somebody outside the city, or I should say outside the service area from which they are to elect a representative. Well, our whole structure of government is based on the fact that the candidate must reside in the area or the election district which he is going to represent. It runs all the way from the senate districts through our representative districts through our city setups; and, I think you should have someone living in a service area represent that area and carry out and be consistent all the way through.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, for once I'll have to agree with the Committee on Local Government on the proposed amendment. I believe that speaking against amendment to the amendment that "from and" will preserve the right of representation of the people living outside the cities. The question was brought forward here several days ago: how large were these boroughs going to be? Well, nobody knows. We might have five or six villages surrounded maybe by 60 to 100 miles from a large city; this will allow those people in those villages to muster their votes and get representation to the borough assembly. I think it should stay as it's written.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, shall the -- Mr. Taylor?

TAYLOR: Mr. President, I'd like to close, I believe I have the right to do so.

PRESIDENT EGAN: If no one else wishes to discuss this, you may close.

TAYLOR: Well, I was trying to do the same thing that Mr. Hurley claims that he is trying to do. I'm an out-of-towner and I think that over the quite a few years that I have lived in the

vicinity of Fairbanks, I don't think there is anybody that has brawled and feuded with the city government as much as I have, and I'll mostly likely keep it up as long as I'm here. I live out of the city -- that's one reason I'm proposing this amendment. Now, another thing that this article as it is drawn -- now, I'll give you an example -- say just taking Fairbanks for example, we have a population of approximately 25,000 or 30,000 people; well around, in and around Fairbanks, we maybe have a population of 10,000. Those people in Fairbanks, the 25,000 or 30,000 in Fairbanks have no vote for members of the assembly, they are deprived of their vote, because somebody picks a man or two off of the city council.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I'll call for a point of order on that.

PRESIDENT EGAN: Your point of order, Mr. Hurley?

HURLEY: I think Mr. Taylor is not speaking to his amendment because his amendment will not accomplish a vote for people in the city for the borough assembly.

TAYLOR: That's just what I was setting up. The people inside the city don't have the vote. They are being deprived of a vote. What I'm trying to do is to let the people outside of the city, if they are a considerable distance away from the city and the headquarters of the borough, that if they want to elect somebody from some other place, regardless whether it is inside of the city, that they should have the right to vote for it if they believe that this person would represent them well in the assembly.

LONDBORG: Roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 8 - Davis, Hellenthal, Hermann, Marston, Nerland, Riley, V. Rivers, Taylor.

Nays: 39 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nordale, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 8 - Buckalew, Hilscher, King, Knight McNealy, Nolan, Peratrovich, VanderLeest.)

CHIEF CLERK: 8 yeas, 39 nays and 8 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed to pass. Mr. Cooper.

COOPER: Mr. President, may I ask the Committee a question?

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

COOPER: In the new Section 5, where it says, "the members of the city council and that additional members of the assembly," was consideration given to "an equal number of members of the assembly shall be elected without the city"?

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Cooper, we have written this article about 50 times so far and we have thought of trying to set up some basis of apportionment and we decided that with the many different situations that are going to be in each borough that the only thing we could do is to have apportionment set in some other manner than through the constitution but we thought of many different possibilities.

COOPER: May I direct this question to the Committee?

PRESIDENT EGAN: If there is no objection.

COOPER: Then there is a possibility that the city council or the city represented on this assembly can possibly be in the majority or a possibility of the outer borough can be in the majority?

LEE: That is correct.

COOPER: And that is to the thinking of the Committee, that it was best?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I'd like to clarify that a little. It was not the thinking of the Committee that it was best. It was the thought of the Committee that there should be representatives from all factions of society in the areas of this group and that they would have balanced representation. That, under the apportionment plan, which they might adopt, that at least one member of the city council under this would sit on that assembly, but it is also thought that in considering their plan of apportionment they will try to do as we have done here guaranteeing equal and proportionate representation; and, as our thinking goes we did

not try to spell it into this constitution. It is my opinion, at least, that at least seven members would compose this borough assembly as a minimum; and that it might possibly run to nine, or it might possibly run to more depending upon the size and the composition of the borough in relation to its different interests. I do not see how, under this, there could be disproportionate representation unless the people themselves so elect to have it.

PRESIDENT EGAN: Are there other amendments for Committee Proposal No. 6/a? We have held in abeyance the name question. Mr. Ralph Rivers.

R. RIVERS: Mr. President, perhaps we could have a recess before we get through with the name routine, and I would like to speak to the Committee once more about Section 15.

PRESIDENT EGAN: If no objection the Convention will be at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal No. 9, has compared it with the original, finding it correctly engrossed and the first enrolled copies will be placed on the delegates' desks in short order. I move the acceptance of the report.

PRESIDENT EGAN: Mrs. Sweeney moves the acceptance of -- asks unanimous consent for the adoption of the report of the Committee on Engrossment and Enrollment, Committee Proposal No. 9. Is there objection? Hearing no objection it is so ordered. Committee Proposal No. 9 is referred to the Committee on Style and Drafting. Mr. Sundborg.

SUNDBORG: Mr. President, under this heading your Committee on Style and Drafting presents a report which is on the Clerk's desk and asks that it be read now.

PRESIDENT EGAN: Will the Chief Clerk please read the report of the Committee on Style and Drafting.

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the article on the judiciary for consideration by the Convention."

PRESIDENT EGAN: The article will be assigned to the Rules Committee for assignment to the calendar. Are there other reports to come before the Convention at this time?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, with Mr. Cross's consent I'd ask for the report of the Committee on Resolutions and Recommendations be read. It's never been, has it?

CHIEF CLERK: That's already been read and referred to the Rules Committee.

PRESIDENT EGAN: That has been covered, Mr. Robertson. Is there a report at this time from the special Committee to read the journal? Mr. White, do you have a report from the special Committee to read the journal? Is the Committee on Local Government still busy? If not, the Convention has been called to order. Mr. Hurley.

HURLEY: Are we on the order of business now, Mr. President?

PRESIDENT EGAN: We are, Mr. Hurley.

HURLEY: The proposal before us on local government?

PRESIDENT EGAN: We have before us the Committee Proposal No. 6/a. The Chair recalls that the question relative to that, was held in abeyance relative to the suggestion of names, but we are in the amendment process, Mr. Hurley.

HURLEY: Mr. President, I move that the Convention's action on line 14, page 4, Section 10, respecting the striking of the words "other classes" be rescinded.

PRESIDENT EGAN: That was on a motion made by Mr. White, was it not?

HURLEY: Yes.

PRESIDENT EGAN: Mr. Hurley has moved that the Convention rescind the action taken in voting down the proposed amendment that had been made by Mr. White with relation to striking the words "other classes". Is that correct?

CHIEF CLERK: No.

HURLEY: "Classes of".

PRESIDENT EGAN: "Classes of". In order to rescind our action it will take 28 votes. Is there a second to Mr. Hurley's motion?

TAYLOR: I'll second it.

PRESIDENT EGAN: Mr. Taylor seconds the rescinding motion. Mr. White.

WHITE: Mr. President, is this a debatable motion?

PRESIDENT EGAN: Yes, it is a debatable motion. Mr. White.

WHITE: Mr. President, I won't take part of the Convention's time to discuss this motion. I did bring it before the Committee briefly. I don't think they had time to reach a decision, so I presume it would be unfair to call on the Chairman for an expression of opinion. I do think I would be fair in stating that at least some members of the Committee are in favor of the adoption of this motion to rescind. I spoke to one of the consultants that has been with the Committee and I believe he is in favor of such a motion.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action taken when it voted down the motion that had been made; the proposed amendment that had been made by Mr. White?" Mr. Gray.

GRAY: If it is a roll call I wish to abstain because I wasn't present during the discussion of the question.

PRESIDENT EGAN: Mr. White, if you'd care to --

WHITE: I request a roll call vote.

PRESIDENT EGAN: There will have to be a roll call vote. Mr. Doogan.

DOOGAN: I would like to make a statement against this. I say that this section doesn't preclude any other class of city other than first class from getting home rule. I maintain that the legislature by general law can set up standard specifications so that when any village reaches a certain point that they can call themselves a second-class city, third-class city, or whatever they choose, and they are such that when they reach the point of meeting the specifications set out by the legislature, or set out by law, they can also attain home rule. The reason I oppose the amendment is that by leaving the word "classes" in there, when the legislature makes law for a borough of a certain class, or a city of a certain class they mean all boroughs or all cities. By taking the word "classes" out, it would leave the way open for special legislation for a certain city or a certain borough. We know that, for instance, in Pennsylvania there is one city of the first class, which is Philadelphia; there is one city of the second class, which is Pittsburgh. When the state legislature chooses to do something for one or the other, they say this law applies to all cities of the first class or all cities of the second class, and that I am opposed to.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment that we are about to attempt to rescind our action on.

CHIEF CLERK: "Section 10, page 4, line 14: strike the words 'classes of'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise to support Barrie White's motion -- or I should say this matter of reconsideration -- rescinding the action previously taken. If we read that -- if it says that the borough -- "the legislature may extend home rule to other boroughs and cities," that leaves it open for the legislature to deal either through general legislation or through a specific grant to a particular town. There is no particular objection to special legislation in cases of this kind, and that's why our legislative act says that there shall be no special legislation when it can be controlled by general legislation, but when a particular setup doesn't afford coverage by general legislation, it can be done by special legislation. Well, I can see a little community with a qualitative value, such as Barrie was trying to point out, that might be in line to be given home rule. Well, the trouble is if you start classifying and you draw up suitable classifications, then you have to start changing those classifications because the pressure is on to give home rule to "Podunk", so they have to change the whole classification to include "Podunk", and in doing so they probably include some others that are not ready yet. This gives more flexibility to the legislature. The legislature may restrict itself to general legislation or it may give home rule to a particular locality that might need it without changing its classification system, so there is some merit in Mr. White's thoughts.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, the Committee is on its own on this and I would just like to say that I'm going to vote in favor of the rescinding action, taking out the words "classes of", would still permit the legislature to act by classes; however, if an exceptional case comes up, as Mr. Rivers points out, the legislature could then act.

PRESIDENT EGAN: The question is -- Mr. Sundborg.

SUNDBORG: May I address a question to Mr. Ralph Rivers?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Mr. Rivers, wouldn't our provision in the article on the legislature requiring legislation -- general legislation, wherever that can be used, still prevail even in the case of the extending of home rule to boroughs and cities?

PRESIDENT EGAN: Mr. Ralph Rivers.



R. RIVERS: I say, yes, that is true. It may be construed, however, that to grant home rule to a particular locality cannot be handled by general legislation because it wouldn't be appropriate to set it up for all the reasons that I previously stated, but, that in the legislative article does govern.

PRESIDENT EGAN: The question is, "Shall the Convention rescind its action with relation to the proposed amendment that had been offered by Mr. White?" The Chief Clerk will call the roll.

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

Yeas: 34 - Armstrong, Barr, Boswell, Coghill, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hermann, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nordale, Reader, Riley, R. Rivers, Smith, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 13 - Awes, Collins, Cross, Doogan, Hellenthal, Knight, McCutcheon, Marston, Nerland, Poulsen, V. Rivers, Robertson, Rosswog.

Absent: 7 - Buckalew, Hilscher, King, Nolan, Peratrovich, Stewart, VanderLeest.

Abstaining: 1 - Gray.)

GRAY: Mr. Chairman, I would like to vote "yes".

PRESIDENT EGAN: Mr. Gray wishes to vote "yes".

CHIEF CLERK: 35 yeas, 13 nays and 7 absent.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would raise a point of order merely to clarify it in future times and that is if a member gives notice of abstaining from voting because he has not been here can he, before the vote is announced, include his vote?

PRESIDENT EGAN: Mr. McCutcheon, your point of order is well taken. If before the roll call is announced -- before the Chair announces the result -- the Chair will instruct the Secretary to scratch the name of Mr. Gray on this vote.

CHIEF CLERK: 34 ayes, 13 nays, 7 absent and 1 abstaining, is that it?

KILCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: Don't those abstaining have to give notice before the roll call is started?

PRESIDENT EGAN: It was given before the roll call was started. The Chair forgot that Mr. Gray had asked for roll call and was thinking that he was changing from one vote to the other. That was before roll call.

GRAY: If it would help any I would withdraw.

PRESIDENT EGAN: The "ayes" have it and the proposed -- the rescinding action has carried. We now have the proposed amendment by Mr. White before us. Mr. White.

WHITE: I request a roll call.

PRESIDENT EGAN: Is there a discussion? If not the question is -- Mr. Gray.

GRAY: This is the vote that I wish to abstain on.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 33 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nordale, Riley, R. Rivers, Smith, Sundborg, Taylor, Walsh, White, Wien.

Nays: 14 - Awes, Cross, Doogan, Knight, McCutcheon, Marston, Nerland, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Sweeney, Mr. President.

Absent: 7 - Buckalew, Hilscher, King, Nolan, Peratrovich, Stewart, VanderLeest.

Abstaining: 1 - Gray.)

CHIEF CLERK: 33 yeas, 14 nays, 7 absent, and 1 abstaining.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 6/a? Mr. Ralph Rivers. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 15, page 6, line 2, after the word "integration" insert the following, ',consistent with the provisions of this article,','."

R. RIVERS: I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second to the motion?

DOOGAN: I second it.

PRESIDENT EGAN: Mr. Doogan seconded the motion. Mr. Ralph Rivers.

RIVERS: Mr. President, the language in Section 15 seemed to me a little bit vague. It is actually talking about existing incorporated districts like school districts and public utility districts, which exist at the present time and which will be in existence during the transition period before the boroughs are organized, and then when a particular area is organized, these existing districts are to be integrated, which means brought together according to various interpretations of the word "integration". Well, rather than let the courts look up the definition of "integration" and take all the various shades of meaning, it's better to clear this up by saying that that integration shall be consistent with the purposes, I mean the provisions of this article, so I do this after consulting with the Committee and after the persons interested agreed that this was an acceptable amendment.

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

BARR: Mr. President, I oppose a lot of unnecessary words being put into the constitution. It may not be clear to some people but it's clear to me and I'm sure it will be clear to others.

PRESIDENT EGAN: Mr. Barr, the stenotypist could not hear what you said. Could you say that again, Mr. Barr.

BARR: That's what he is. I thought he was taking oxygen.

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

BARR: It gets pretty thick around here sometimes. I said that this is an example of a lot of unnecessary words being put into the constitution. It's perfectly clear to me without those words and I don't think they are a bit necessary.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. Rivers a question?

PRESIDENT EGAN: You may ask a question, Mrs. Nordale.

NORDALE: Would it be constitutional for the legislature to provide anything inconsistent with the provisions of this article?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Well, when it says, "they shall provide for the integration of," that's kind of a blanket business. There are complications unless you clarify this and the consultant and the Committee members agreed with me that there was a point there, so I think probably we could rewrite the whole section, but this was the simplest way at getting at the point.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 25 - Armstrong, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, Hurley, Kilcher, Londborg, Metcalf, Nerland, Nordale, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Taylor, Walsh, White, Wien.

Nays: 24 - Awes, Barr, Boswell, Coghill, Collins, Davis, Gray, Hermann, Hilscher, Johnson, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Poulsen, Reader, Riley, Robertson, Sweeney, Mr. President.

Absent: 6 - Buckalew, King, Nolan, Peratrovich, Stewart, VanderLeest.)

CHIEF CLERK: 25 yeas, 24 nays and 6 absent.

PRESIDENT EGAN: And so the "ayes" have it, and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 6/a? Mrs. Sweeney?

SWEENEY: Mr. President, I'm not sure just how correct that time is, we've got all kinds of different times here. I'm wondering whether it might not be a good idea when we adjourn tonight to adjourn until 9:00 o'clock tomorrow morning. We've had quite a high degree of absentees this afternoon, and I believe that the delegates having worked these weeks each night, except for last night, I think they have come to a place where they might be a little bit rum-dum and it might be good for us to have another night off and put in a full day tomorrow. I honestly believe that it would do some good, so I would like to

move at this time, subject of course, to any committee announcements, or other announcements, that we adjourn until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Sweeney, are you requesting that we do that now, or should we consider this question of names first -- the amendment that we have held back?

SWEENEY: We won't be able to adjourn until probably tomorrow morning if we start considering them now.

PRESIDENT EGAN: The only thing the Chair thought would be that we would be here another 30 minutes anyway. The Chair would also like to ask about the lunchroom upstairs, have they been notified that we are not going to eat here tonight, Mr. Coghill?

COGHILL: They haven't. I told them we would meet every night unless otherwise notified. However, there are not too many eating here in the evening.

SWEENEY: Mr. President?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Perhaps we can go on with the names and work on until maybe 6:00 or 6:15 and take the 7:00 o'clock bus in, but I hope the delegates seriously consider adjourning until tomorrow morning.

PRESIDENT EGAN: Are you asking unanimous consent at this time, Mrs. Sweeney?

SWEENEY: Yes.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard.

SWEENEY: I so move.

PRESIDENT EGAN: Mrs. Sweeney so moves. Is there a second?

UNIDENTIFIED DELEGATE: Moves what?

PRESIDENT EGAN: That we adjourn until 900 a.m. tomorrow.

SWEENEY: When we adjourn tonight.

PRESIDENT EGAN: The Chair understood that you meant that we adjourn right now.

SWEENEY: No, I meant that since we are expected to eat upstairs probably it might be better to just keep going now.

PRESIDENT EGAN: Mrs. Sweeney moves that when the Convention adjourns tonight that it adjourns until 9:00 a.m. tomorrow. All those in favor of that motion will signify by -- Mr. McCutcheon.

MCCUTCHEON: Point of order, Mr. President. Adjourn until 9:00 o'clock in the morning when we adjourn in the evening?

PRESIDENT EGAN: That is right.

MCCUTCHEON: What is the issue then?

PRESIDENT EGAN: Well, Mrs. Sweeney meant that we would not have the night session but would adjourn until 9:00 a.m. in the morning, without having a night session.

SWEENEY: Mr. President, Mr. Coghill seems to think that we do not have to eat upstairs so if that is the case I renew my original motion that we adjourn now until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Sweeney moves that the Convention stand adjourned until 9:00 a.m. tomorrow. Is there a second to the motion.

KNIGHT: Second.

PRESIDENT EGAN: Seconded by Mr. Knight. The question is, "Shall the Convention stand adjourned until 9:00 a.m. tomorrow?" All those in favor of adjourning until 9:00 a.m. tomorrow will signify by saying "aye", all those opposed by saying "no". The "noes" have it and the Convention is still in session. We have before us Committee Proposal No. 6/a. Are there amendments to Committee Proposal No. 6/a?

CHIEF CLERK: Well, it is my understanding that these are to be read all at once, are we on that yet -- the names?

PRESIDENT EGAN: Well, who said we would read them all at once?

CHIEF CLERK: Isn't that the ruling?

PRESIDENT EGAN: Was it the rule that we read all these names at once?

UNIDENTIFIED DELEGATE: Yes.

PRESIDENT EGAN: The Chief Clerk will read all the names.

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SUNDBORG: If we are going to go on to that order of business now, I believe it is in order to call for the submission of all names that will be considered -- I'm not sure they are all in.

PRESIDENT EGAN: Does everyone who had wished to submit a name have that name on the Chief Clerk's desk at this time? Mr. Johnson?

JOHNSON: Mr. President, I move that we stand at recess until 7:00 o'clock this evening.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 7:00 o'clock this evening.

HERMANN: I second the motion.

PRESIDENT EGAN: Seconded by Mrs. Hermann. The question is, "Shall the Convention stand at recess until 7:00 p.m.?" All those in favor of standing at recess until 7:00 p.m. will signify by saying "aye", all those opposed by saying "no". The "noes" have it then. The Convention is in session. Are there other names to be presented to the Chief Clerk? Mrs. Sweeney.

SWEENEY: Mr. President, I was going to ask one question. I believe you have amendments on the Secretary's desk and the sponsors aren't here, what are you going to do about those?

PRESIDENT EGAN: If the sponsors --

CHIEF CLERK: They are here.

SWEENEY: They are here?

CHIEF CLERK: They are here.

PRESIDENT EGAN: We can't hold up the business of the Convention because -- the Chief Clerk may read -- if the members are not here to support their names, someone else might do it. The Chief Clerk will read the proposed names that are available.

CHIEF CLERK: Mr. McNealy proposes changing the word "borough" to "county" throughout the proposal. Mr. Kilcher, change "borough" to "canton". Mr. Hilscher, Mr. Marston, Mr. McNees propose changing "borough" to "province". Mr. Boswell proposes to change the word "borough" to "division", to be prefixed by principal city or geographic feature of the area included. Mr. Hellenthal proposes to change the word "borough" to "canton". Mr. Laws proposes to change the word to "county". Mr. Barr proposes to change the word to "county".

PRESIDENT EGAN: Is that all of the names?

CHIEF CLERK: That's all.

PRESIDENT EGAN: Mr. Hellenthal..

HELLENTHAL: Mr. President, I favor calling the unit of local government the "canton". The canton is the name of the local government units in Switzerland and it has a definite accepted terminology. It is the unit of local government that has been in existence there for centuries. The word is a foreign word, in a sense, although it has crept into the English language but is no more foreign than the word "senator", which is Latin; and the word "democracy", which comes from the Greek; nor the word "republic" which comes from the Latin; in fact most of the words that we use in connection with local government are from foreign sources. Now, I think that this word is particularly desirable to Alaska. "Province" implies large land masses, it has a Canadian familiarity and hence I do not think that it quite fits the bill. "Borough" for reasons that seem to be quite apparent, is rather inappropriate, probably because of the puns that it lends itself to. "County" has a significance that I think we should avoid because this creature that we have erected here is not a county -- definitely not a county, and I see no reason why we should call it that, and counties have grown in wide disrepute. Now, the Swiss canton is generally regarded as the cradle of freedom, of liberty, and of democracy. When we think of democracy we think of the ideal democracy, or the Swiss democracy, and with the use of this word we would gather the connotations that go with it. The connotation of freedom, democracy, and liberty; and those are things that should not be overlooked in our country. Now, I think that the word would lend itself -- have the canton of Cordova, the canton of Kodiak, the canton of Anchorage, the canton of Seward, etc. I think it would meet with popular favor. Then there is another point that should not be overlooked and that is that Swiss geography is that of mountainous terrain, valleys, and great mountains, and our country is much like Switzerland in its geography and I think that, although advertising should not be the sole consideration, it is a very important consideration.

PRESIDENT EGAN: Mr. Hellenthal, your three minutes are up.

HELLENTHAL: And, for that reason, and of course, other reasons, I believe this name should be adopted.

MCCUTCHEON: Point of order.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

DOOGAN: Point of information. Is the name "borough" automatically included in that list?

PRESIDENT EGAN: The Chair would feel so since it is in the article. Mr. Poulsen.

POULSEN: Mr. President, may I ask the word "district" be added to the list.



PRESIDENT EGAN: Mr. Poulsen adds the word "district" to the list. Is there further discussion? How did the Rules Committee say we were to proceed on this?

BOSWELL: Mr. President.

PRESIDENT EGAN: Just one three-minute talk on each name, is that right? Mr. Boswell.

BOSWELL: I have proposed the term "division". Here are some definitions of the term "division". One: "Anything partitioned off or separated". Two: "A sharing or apportioning." Three: "A separation into groups for voting." Four: "Anything that divides." Five: "Partition." Six: "Boundary." Seven: "Department." Eight: "Compartment." Nine: "Section." Ten: "Segment." Now, at the time the Committee considered the name for this local government they did not have the term "division" available to them because we had our four judicial divisions. We have now changed that by naming these four judicial divisions into the various Southeastern and Southcentral, Central, and Northwestern Alaska; so this term is now available and is not used anywhere else in our constitution. The term "division" is familiar to Alaskans in its defining a definite area for specific purposes, which is a sort of term we are seeking for local government. If we turn down the committee proposal for "borough" I fear that we will come back to the term "county", which I think would be unfortunate as the term "county" does not fit into the new concept of local government we now have. If we prefix the divisions with principal city or geographical features of the area it will help to locate the area in anyone's mind that knows his Alaskan geography. I believe it will sound appropriate to speak of the Anchorage division, the Denali division, the Juneau division, or the Homer division. I have read this term into the committee article and it reads well. I'll read Section 2: "All local government powers shall be vested in divisions and cities. The state may delegate taxing powers to organized divisions and cities. Section 3. "Divisions shall be established according to such standards..." etc. It sounds appropriate to speak of division assembly, or division court or division police. I ask you to give this term "division" serious consideration. I think it is appropriate, dignified, and Alaskan.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I'd like to ask him a question, but does that take up my time if I ask Mr. Boswell a question?

PRESIDENT EGAN: Yes.

HILSCHER: I won't ask the question.

PRESIDENT EGAN: Does anyone else wish to speak at this time on

their particular name proposal? Mr. McNealy.

MCNEALY: Mr. Chairman, well, I suppose I'm a little oldfashioned and conservative but I am going to have to speak for the word "county". It's a good old American name and isn't adopted from any peculiar situation. It has only one connotation and that is county as it is known in law. It is easy to be understood by the court and the fact that this article here of local government certainly sets up, it wouldn't make any difference what it might be called, it still has the same form of government. I think that removes any connotation as to county government. Like a great many of you I have lived in the states and there is, I think, in counting up there are probably more counties that work successfully than those that don't. I grant there are difficulties in matters in Chicago and Los Angeles Counties -- Cook County in Chicago, and those where there has been a good deal of difficulty, but the county form works, has worked, and is still working very well in the areas, especially in the less populated portions of the state. I am not going to belabor the point, but I think that we should put something in our constitution, be a little conservative. I don't care, particularly, for the adopting from other countries which to me -- "boroughs", "cantons", and "provinces" -- apply to countries other than our own, and in the matter of the "division" I fear that it brings us back in line with our old judicial divisions again, and the courts might hold that that connotation attaches there.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I'm going to speak for the committee choice of the name "borough". You have all heard the definition of the name "borough" stated here on the floor. It means an area of local government, it also applies to city government, it came to us originally from England. It has a much less unfavorable connotation both from the point of view of its origin and also from the point of view of its practice and use in the United States. I read from a small booklet here published by the National Municipal League, an article entitled The Chaotic County. "The county was inherited from England where it was originally a convenient geographical area for administering the king's business, such as the collection of taxes and the administration of justice. The first county officer was an agent of the king known as the sheriff. King Richard I, who ruled from 1189 to 1199, had some doubts about the integrity of these sheriffs so he appointed coroners to keep an eye on the sheriff." It goes on to say that many of these sheriffs left the counties, but there you have the pattern upon which the county government has been formed. It has been formed on the old concept -- the British concept of a few appointed officers in that county, and they have been named in our constitutions in the American counties to follow that pattern of the sheriff, the coroner, and the others. Now, we have broken away

from that in our concept and we have a broader sense and a broader concept of boroughs. I can visualize the boroughs named, not after the cities they embody perhaps, but such as the Chugach borough in the Anchorage area; the Kenai borough; the Gastineau borough; and similar applications of a broad and geographical nature to cover the area they include. Therefore, I endorse and support the name of "borough" as we have adopted it in the Committee.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I'm going along with Mr. Rivers.

PRESIDENT EGAN: Mr. Taylor, now before we discuss this, the rule that we adopted yesterday said that the Local Government Committee can be given five minutes to defend the use of the term "borough". Now that was the rule that we adopted with relation to the word "borough", so if Mr. Victor Rivers used up two minutes there are three minutes left, if the other members of the Committee desire to utilize that time in the defense of the word "borough", according to the rule that we adopted yesterday.

TAYLOR: I'll take about a minute.

PRESIDENT EGAN: Mr. Taylor, unless the Committee designates you as one of their group to defend it -- Mr. Rosswog.

ROSSWOG: We would like to use up the other three minutes, but possibly later.

PRESIDENT EGAN: The Committee would?

ROSSWOG: The Committee would, yes.

PRESIDENT EGAN: Mr. Taylor, with relation to the word "borough" the rule left that up to the Committee to defend its choice for five minutes. They have three minutes left.

TAYLOR: They defended the name "borough".

PRESIDENT EGAN: Well, Mr. Taylor, that wasn't in conformance with the rule that we had adopted.

ROSSWOG: If Mr. Taylor would like to speak on the word "borough" we would like to allot him one minute of our time.

PRESIDENT EGAN: Mr. Taylor, you may have the one minute, then.

TAYLOR: Well, I was just going to say that I believe as Mr. Rivers does that the designation of "county", it brings to mind mismanagement, political mismanagement. "Canton" brings to my mind the tinkling cymbals or the Chinese dancing girl, the

pagodas, and chop suey, and the fact that the name was so popular that the Chinese adopted it and named one of their cities the name of Canton.

PRESIDENT EGAN: That is the one minute. Now, the Committee has two minutes left on "borough". The Convention will come to order. Does anyone else wish to speak on his choice or who submitted a name?

POULSEN: Mr. President, I would. At our Anchorage hearing over Christmas, the word "borough" was discussed quite a bit and it seems like the majority didn't like that word or that name. Now, in regards to the word "canton" I think it is too foreign sounding. In regards to Mr. Boswell's "division", he pretty much outlined the way, and that word sounded pretty good to me. If that were not adopted I would like to see the word "district" -- Anchorage district, Spenard district, or whatever area they're in. It would be much easier sounding to everybody. I would either support "district" or "division".

PRESIDENT EGAN: Is there a defense of any other name that has been submitted by the person who submitted it? Mr. Marston, was your name submitted by you and Mr. Hilscher?

MARSTON: Yes.

PRESIDENT EGAN: Then you may have a minute and a half apiece.

HILSCHER: He may have it all.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I would like to see the word "province". Now, they have said it is too large, but I would like to come from the Northwest province, District One, Two, Three, or Four. I'd feel much better than saying I came from Borough, One, Two, Three, or Four. If I said I came from Northwest Province, District One, Two, Three, or Four, or Central province -- and I like that. If I can't get following for that I'd like to go for "canton" or, if I can't get that I'm going to go for Boswell. I hope that we don't have a decision on this until after dinner. I move that we do not vote on this until after dinner.

PRESIDENT EGAN: Mr. Marston moves that --

SWEENEY: Point of order. We are arguing on the names now. We are not in a position to move.

MARSTON: Well, when we are through arguing I want you to not vote.

PRESIDENT EGAN: Is there discussion of the other names? Mr. Doogan.

DOOGAN: Mr. President, the only other name that is left is "borough". The pronunciation is "borough", not "burro" despite the pictures that have been drawn. We picked the name "borough" because we arrived at a place in our thinking and working on local government that we had to pick a name and in so doing we tried to pick a name without any connotation, without any undesirable elements about it, so that we could continue our thinking in a clear manner all the way through this article. We presented the name "borough" to this body so that we could give them a clear picture of what we were trying to do in local government without their thinking being clouded by any names with undesirable connotations on them. We have got to go further than this, we have got to carry this article on to the people, clear and uninhibited without any undesirable connotations on it. That's the reason that I hope we keep the name "borough" not "burro".

PRESIDENT EGAN: The Committee has about 40 seconds left. Is there anyone else who wishes to speak on the name that they have submitted?

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I was also a proponent of the word "province". How much time do I have left?

PRESIDENT EGAN: Well, you have about a minute and a half, Mr. McNees.

MCNEES: The word "province" comes down to us from early Roman history, and it means a country or region, more or less remote from the city for administration purposes, but surrounding that city; an administrative district or division of a country; an important administrative unit of a country or any territory or area that is for the time being administered by any local government; a region of country, a tract, or a division. In Roman history it had a range of power rather than the connotation of a subjugated district. It also means a department of knowledge or activity; a portion of a country, especially one remote from or outside of the capital or largest city; any division of less rank than a region. Inasmuch as we have determined four major geographic regions or areas for our Territory I do feel that it might be important to consider the name "province" for the administrative areas of the local level.

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

BARR: Mr. President, is there any time left for the good old American word "county".

PRESIDENT EGAN: How much time?

CHIEF CLERK: McNealy spoke on "county". He didn't speak three minutes.

PRESIDENT EGAN: The Chair feels that there is about a minute and a half left on "county".

BARR: I will only use one minute. The chief thing here against "county" is the form of government or the way the government has been conducted in some counties. We are a new state and I believe that we should use a word that is recognized all over the United States, and understood by all of the American people, and use our own form of government and show to the people down south what a good county government is. I don't favor the word "borough", it is long and cumbersome. We aren't familiar with it, and I wouldn't want anybody to think I was a rabbit because I came from a "burrow". "Division" is a good word and so is "district". "Division" is my second choice, but I think that county is better understood by the American people and I favor the word "county". Let us show them how to run a county.

PRESIDENT EGAN: It seems that all the time has been used up. Mr. Rosswog.

ROSSWOG: Mr. Chairman, I believe we have 40 seconds left for the Committee.

PRESIDENT EGAN: That's about right. Mr. Rosswog.

ROSSWOG: On this 40 seconds I would like to say that I don't think the name "borough" has such an awful sound. We have names in Alaska, such as if we had the borough of Tolovana, the borough of Chandalar, the borough of Denali, borough of Kantishna, borough of Katmai, borough of Iliamna, that does not sound too bad to me.

KILCHER: Mr. President, point of information.

PRESIDENT EGAN: Mr. Kilcher, your point of information.

KILCHER: How was the actual voting going to take place?

PRESIDENT EGAN: The Chief Clerk will call the roll and each delegate will answer when his name is called using the word for the name of the unit of government of his choice, and we will go until there is a majority of the delegates that are present for one word.

KILCHER: Another question. There were two sponsors, separate sponsors, on "canton" and they had three minutes among themselves?

PRESIDENT EGAN: That's right. It says here, Mr. Kilcher, that the way the Chair interpreted it: "That the proponents of each name be allowed not more than three minutes to speak in favor of the suggestion."

KILCHER: Then I misunderstood. I was under the impression that if there were coauthors that they were each given three minutes. I understood that.

PRESIDENT EGAN: The Chair recalls that you asked that question, and it was not answered at that time, but in reading this today, which is what they read from yesterday it says that --

KILCHER: All right.

BARR: Mr. President?

PRESIDENT EGAN: Mr. Barr.

BARR: I wasn't here when this method of voting was decided on. You say that voting will continue until there is a majority?

PRESIDENT EGAN: If we don't get a majority on the first one, Mr. Barr, we will drop the one that has the lowest number of votes.

BARR: I was going to propose that we take a second vote on the two highest. I do have a second choice.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "What name will we have for our unit of government within the state?" The Chief Clerk will call the roll and each delegate will answer with his choice after his name has been called.

(The Chief Clerk called the first roll.)

CHIEF CLERK: Borough - 21; Canton - 7; County - 16; Province - 1; Division - 3; District - 2; and 5 absent.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I'd like to change my vote from "canton" to "borough".

MARSTON: Mr. President, I'd like to change my vote from "canton" to "borough".

PRESIDENT EGAN: It is too late now. No, you can as the Chair has not announced the vote.

METCALF: I'll ride with "borough".

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I'll change to "borough".

PRESIDENT EGAN: Mr. Hilscher changes to "borough".

AWES: I'll change mine to "borough".

PRESIDENT EGAN: Miss Awes changes to "borough".

LONDBORG: I'll change to "county".

PRESIDENT EGAN: Mr. Londborg changes his to "county".

HINCKEL: I'll change from "canton" to "borough".

PRESIDENT EGAN: Mr. Hinckel changes to "borough".

BUCKALEW: I change from "canton" to "province".

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

ROBERTSON: I'll change from "division" to "borough".

HURLEY: Wouldn't it be possible to get unanimous consent for "borough" and get this thing over with?

PRESIDENT EGAN: No, not at this time. Not until the Chair announces what the vote is, Mr. Hurley.

CHIEF CLERK: Borough - 26; County - 17; Province - 2; Canton - 1; Division - 3; District - 1.

PRESIDENT EGAN: How many were present and voting altogether?

DOOGAN: Fifty present.

PRESIDENT EGAN: If that is true and if there were 50 votes -- Mrs. Sweeney?

SWEENEY: Mr. President, I wonder if it wouldn't be easier for Katherine if those who changed to "borough" would stand so that she --

CHIEF CLERK: I think I have got it. Those who changed are: Awes changed to "borough"; Buckalew changed to "province"; Hellenthal to "borough"; Marston to "borough"; Metcalf to "borough"; Hilscher to "borough"; Londborg to "county"; Hinckel to "borough"; Robertson to "borough"; 27 votes for "borough" and "county" has 16.

Borough: 27 - Armstrong, Awes, Cross, Doogan, Emberg,



V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Lee, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nordale, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Mr. President.

County: 16 - Barr, Coghill, Collins, Cooper, Davis, H. Fischer, Gray, Harris, Johnson, Knight, Laws, Londborg, McNealy, Reader, Smith, Wien.

Canton: 1 - Kilcher.

District: 2 - Poulsen, Riley.

Division: 2 - Boswell, R. Rivers.

Province: 2 - Buckalew, McNees.

Absent: 5 - King, Nolan, Peratrovich, Stewart, VanderLeest.)

PRESIDENT EGAN: And by your vote you have, by majority vote, adopted the word "borough" as the unit of government within the state. Mr. McNees.

MCNEES: Mr. President, would it be in order to make it a unanimous vote?

PRESIDENT EGAN: Mr. McNees moves that the Convention cast a unanimous vote for the word "borough". Is there objection?

BUCKALEW: Objection.

BARR: I object.

PRESIDENT EGAN: Objection is heard. There is no motion. Are there other amendments to Committee Proposal No. 6/a? Mrs. Hermann.

HERMANN: I move that the Convention recess until 7:30.

PRESIDENT EGAN: Mrs. Hermann moves that the Convention stand at recess until 7:30 p.m. Is there objection? Is there a second to the motion?

MCCUTCEHON: I second the motion.

PRESIDENT EGAN: Before we put that question up are there committee announcements? The question is, "Shall the Convention --

COGHILL: It is 6:00 o'clock now, I don't know whether we will have time to have our committee meeting at this hour. There will be a supper meeting of the Administration Committee.

MCCUTCHEON: Mr. President, before you cast a vote will you announce the disposition of this article, please?

PRESIDENT EGAN: The article is referred to the Committee on Engrossment and Enrollment. The question is, "Shall the Convention stand at recess until 7:30 p.m.?" All those in favor of standing at recess until 7:30 p.m. will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 36 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hermann, Hilscher, Hurley, Johnson, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, Sundborg, Taylor, Walsh, Wien, Mr. President.

Nays: 13 - Coghill, Collins, Cross, H. Fischer, Harris, Hinckel, Kilcher, Knight, McNealy, Reader, Rosswog, Sweeney, White.

Absent: 6 - Hellenthal, King, Nolan, Peratrovich, Stewart, VanderLeest.)

CHIEF CLERK: 36 yeas, 13 nays and 6 absent.

PRESIDENT EGAN: The "ayes" have it and so the Convention will stand at recess until 7:30 p.m.

#### RECESS

SECOND VICE PRESIDENT: The Convention will come to order and may the record show that the Second Vice President is presiding because the President and the First Vice President are absent this evening because of compelling reasons. We have before us on the calendar, which is available, Committee Proposal No. 11. It is in second reading. The Chief Clerk will proceed with the second reading.

(The Chief Clerk read Committee Proposal No. 11 for the second time.)

SECOND VICE PRESIDENT: Are there any amendments to be offered? to this proposal? Mr. Smith.

SMITH: Mr. President, I believe that it has been the practice to have the chairman of the committee explain the proposal and I wonder if it would be possible to follow that procedure?

SECOND VICE PRESIDENT: I am entirely agreeable. I overlooked it. Mr. Victor Rivers.

V. RIVERS: Well, as Chairman of the Executive Committee I will give you my comments upon this particular item. It is the first election and can take place any time, provided, of course, that the terms for which the elected are elected begin, or rather end, upon the first Monday in December of the next even year following a presidential election. It was decided in the Committee on the Executive in the matter of when the governor should hold his term of office in relation to that of the Presidency, that, it would be better to take a year in which it was not a presidential year for the reason that you would have more attention and more interest given to the state affairs, and they might not be influenced or distorted or attention taken away from them by the broader--broader national picture. So, you have before you the proposal which covers an election at any time in the interim of a four-year period, but must end on the even-year period when there is no presidential election. We think that outside of setting up the machinery of the actual election, it covers all the constitution needs to say about the election of the first governor and secretary of state.

SECOND VICE PRESIDENT: Are there any questions? Are there any amendments to be offered? Mr. Boswell? Mr. Victor Rivers.

V. RIVERS: I'd just like to make one further comment, and that was, in the article which I have placed on your desks this morning, this matter is dwelt on, or dealt with, very briefly and it says, this is the article from the National Municipal Review, you have a copy of it mimeographed on your desks. In connection with the off-year election of governors it states: "Yet another step is needed, state elections should be disentangled from national elections. Important issues of state government are too frequently obscured by the drama of the national contest. The American Assembly recommends that state elections be held in nonpresidential years." We had adopted that policy in Committee prior to this information, or this comment being available to us, but I present it to you as the thinking of the Eighth American Assembly, which is a top body in the various fields in which they are commenting each year, and this particular Eighth Assembly was commenting on the political science aspects of the American scheme and form of government.

SECOND VICE PRESIDENT: Mr. Boswell.

BOSWELL: I will ask unanimous consent for the adoption of this article.

SECOND VICE PRESIDENT: The Chair considers that that is not a necessary motion, inasmuch as it goes on its regular course without the motion, if unamended. I would like to declare a

one-minute recess to consult with the Rules Committee.

RECESS

SECOND VICE PRESIDENT: The Convention is back in order. If there are no amendments the Chair will refer this proposal to the Committee on Engrossment and Enrollment. It is so ordered. We have before us Committee Proposal No. 12 offered by the Executive Committee.

CHIEF CLERK: This has already been read the second time.

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: As you will all note this is a group of miscellaneous provisions and I'll try to discuss them briefly one by one. Excuse me, that's not been read.

CHIEF CLERK: Yes, it has been read.

SECOND VICE PRESIDENT: You may proceed with your comments. It has been read, unless it is the pleasure of the delegates to refresh their memory, should we read them again? Perhaps that would be a good idea. If there is no objection we will read it again before we start the comments.

(The Chief Clerk then read Committee Proposal No. 12.)

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Chairman of the Committee I will try to give a brief description of each article. Section 1 provides that the legislature shall set up and provide for a system of employment on the merit principle of state employees. The question was brought up the other day as to how wide the term "employment" went in regard to appointive officials and elective officials. They are officers of the state and it was generally held by our consultants that the term "employment" covered up to what the necessary level of executives that the legislature desired to set, that we did not have to qualify "employment" to specifically exclude elective officials, appointive department heads, or executive officers of boards or commissions, so I state that for the record and for the information of all the delegates. In Section 2 we have employees' retirement systems and they will be inviolate in their contractual relationship with this clause in the constitution. There was fear expressed, by one group in particular, that some of the established employees' retirement funds might at some time or another, under the legislative powers, be terminated; and under this clause they could not terminate the contractual obligations under those retirement plans to which people have paid into for many years, and which could be repealed by the legislature if they were so minded. While we assured the individuals that we

could foresee no such circumstance, they felt, and the Committee, after the discussion, felt, that such a clause would be desirable, so it is presented for your consideration. Section 3 is the standard clause which states that no person who does not agree with our ideals and our institutions, and our form of government shall attempt to overthrow the government by violence or support any organization or association which advocates such overthrow. Now, while it is easy to say those things, it is very hard to determine, as you all know, by actual practice what would be considered either subversive or treason, so the clause, however, is the one that is mandatory and required in the constitution. The other one has to do with the oath which follows along with Section 3, which states the oath which they shall take before becoming employees or public officers. Now, a question has been asked as to what we mean by public officers, whether we mean all employees of the state and its subdivisions, and I believe that the legally trained people in the Convention should state as to whether or not they feel the term "public officers" covered the required number or scope or whether it is too broad. In Section 5, we come to a section which was discussed at some length in one of the other sections or other articles of the constitution, but which we transferred to this miscellaneous set of articles, and it has to do with the state's relations -- its political subdivisions, cooperating with the United States national government and with other states and their political subdivisions in matters of mutual concern and common interest and to the extent consistent with the laws and Constitution of the United States with foreign nations. The reason for this is that it sets up specifically here that the legislative bodies may appropriate sums for this purpose. There have been some decisions in the states in which it has been held that the legislatures could not appropriate for state functions which went outside of the state, and because of that narrow interpretation of the legislative power in the matter of other intergovernmental relations, and it was decided that this clause should be included in the constitution. In the last line it says, "The governor shall act as the agent of the state involving all intergovernmental relations." I've stated before, but I will restate that, in that matter when we become a state, the governor will have to receive, for the state of Alaska, vast amounts of equipment, road building equipment, fisheries equipment, and other things, which the organizations charged with the custody of that equipment will have to have some way to receive it and there has been a question raised on this as to whether or not the governor could delegate this authority to some properly authorized representative to sign and act for him in that matter as an agent of the people. That clause should be given some consideration. I think that covers it.

CHIEF CLERK: There is a new section about the University, which I should read.

SECOND VICE PRESIDENT: We will proceed with the reading of this additional section.

(The Chief Clerk then read Section 6.)

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Mr. President, you have heard the reading of this article and it was considered important that in the constitution there be included an article of this type. It gives the University, as a corporate body, the authority to receive and hold property which will be granted to them under the enabling act. It also gives them the authority for administering and disposing of that according to law. It sets up the board of regents and the governing body of the University, and I think the main point this article has is that constitutionally the University of Alaska shall be the only state university in Alaska. Now, the effect of that statement is to point out to you that even though the University of Alaska should establish eventually a number of diverse branches they would all be under the one head of the University of Alaska. We have situations that occur in the states, such as in the State of Washington, you have the University of Washington on the West coast and Washington State University in the Eastern part of the state. They are operated separately and compete in the legislature and other places for funds. Now, in the situation in California where you have a unified university setup, the University of California and they have the University of California as the main branch and the University of Southern California in the southern part and the University of California at Los Angeles in the southern part -- all of which are operated under the same and the one head, under similar policy, and one group of appropriations. So, the extent of this article to be considered is that it unifies the university system in the state. I believe that covers the subject.

HILSCHER: Mr. President, may I ask if this particular section has been reviewed by Dr. Patty of the University?

V. RIVERS: I personally have not seen Dr. Patty, but I'd like to ask Delegate Boswell.

BOSWELL: Dr. Patty has reviewed this and has had it reviewed by other members of the faculty and they believe it covers everything that is necessary so far as they are concerned.

SECOND VICE PRESIDENT: Miss Awes.

AWES: Could we either get that mimeographed or have it read slowly enough so that we can copy it?

CHIEF CLERK: It was distributed three days ago.

AWES: I don't have it. Are there any copies left?

SECOND VICE PRESIDENT: Mr. Harris.

HARRIS: Mr. President, I think that this is the first time that this amendment has been before us and I would ask unanimous consent that it would be considered a part of the proposed miscellaneous articles.

SECOND VICE PRESIDENT: Is there any objection?

MCCUTCHEON: I didn't hear what he said.

SECOND VICE PRESIDENT: The request is that this section pertaining to the University be considered as part of the miscellaneous appropriations. It has already been given the -- or, you want it to be given the section number of 6?

HARRIS: Yes.

SECOND VICE PRESIDENT: That it be given the section number of 6 in miscellaneous provisions. Are there any objections? Section 6 of Proposal No. 12. Are there any objections to having this action on this request?

V. RIVERS: For the record, Mr. President, I will ask unanimous consent that this amendment, Section 6 of Proposal No. 12 be included and incorporated in Proposal No. 12, as Section 6 thereof.

SECOND VICE PRESIDENT: Is there any objection? If not it is so ordered. Now, we should have about a two-minute recess so we can all find copies.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order. Mr. Coghill.

COGHILL: Is the article open now for questioning to the Committee?

SECOND VICE PRESIDENT: That is correct.

COGHILL: Does the Chair wish to take it by section, or could I ask a question of the Committee Chairman on Section 5?

SECOND VICE PRESIDENT: I think we should pursue the procedure of taking it up section by section. I'll ask if there are any questions to Section 1? Mr. Johnson.

JOHNSON: Mr. Rivers, is there any reason why the provision in Section 1, the first line, where it says "shall", is there any

reason why that could not be made permissive instead of mandatory?

V. RIVERS: I'll refer that question to Delegate Nordale to answer that. We discussed it at some length.

SECOND VICE PRESIDENT: Mrs. Nordale.

NORDALE: Mr. President, I'm not sure I recall all the discussion, however, there have been a good many attempts to get a merit system or some kind of civil service system established for Territorial employees, but each time that the legislature has met there actually hasn't been time to make a very thorough study of it. I think the general feeling among most people connected with the Territorial government is that there should be something established in the way of a civil service system, so I think that the reason that we put the "shall" in was to allay some of the fears that have been expressed when the Territory moved into statehood, all of the employees might lose their jobs, or be subjected to political influence, the good old spoils system, and that type of thing.

JOHNSON: Do you know of any real reason why the matter could not be made permissive, so far as the legislature is concerned? In other words, we leave most things to the legislature.

NORDALE: No, from my personal standpoint, I think "may" would do equally as well, but I think our thinking was that we didn't want to frighten all the Territorial employees to death, so we put "shall" in there.

SECOND VICE PRESIDENT: Are there any other questions to Section 1? Section 2? Are there questions to Section 3 or 4? Mr. White.

WHITE: Mr. President, I had a question on Section 3. Is there any danger that in qualifying "employment" under Section 1, you will also have to similarly qualify "employment" under Section 3. In other words, if you limit the meaning of the word "employment" to certain persons under Section 1, could you then have the word "employment" apply to all persons under Section 3? Do you follow what I am getting at?

V. RIVERS: Yes, you have a good point. There is different scope of meaning of the two words "employment".

SECOND VICE PRESIDENT: Mrs. Nordale.

NORDALE: Mr. President, may I just inject a word? You will notice that Section 3 applies to any "public office or employment", whereas the first section is just "employees".

SECOND VICE PRESIDENT: Are there any other questions of Section 3, which we have backed up to? Mr. Victor Rivers.



V. RIVERS: There was one question brought up, I believe it was brought up by Delegate Johnson. The question was whether the oath should read: "I will support and defend the Constitution of the United States," or the "Constitution and laws of the United States." Was that yours, Maurice?

JOHNSON: Yes, I had asked that question.

SECOND VICE PRESIDENT: That might be brought up. I think it was answered at that time, and that can be brought up under amendments if desired. Does anyone else have a question to Section 4? We now come to Section 5. Mr. Coghill.

COGHILL: Mr. President, in Section 5 where we have "intergovernmental relations", what I was concerned about was the matter of a borough assembly, or a city government making a contractual arrangement with the federal government. Is that permissible under this section?

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Yes, it is considered and intended that it should be permissible and that the areas and local governments such as the borough and the city, through their proper officers could participate in different federal programs, such as federal grants-in-aid, and federal assistance programs of various types. This subject might properly bear a little discussion. We think in the Committee that it covers that type of cooperation.

SECOND VICE PRESIDENT: Mr. Coghill.

COGHILL: The purpose of asking the question, then the boroughs under their charter or the cities home rule under their charters would have to adhere to a state law regarding the minimum and the maximum standards of bonded indebtedness and such stuff as that?

V. RIVERS: Mr. Coghill. I'm happy to say, in this particular constitution so far, we have not set any maximums on bonded indebtedness, and the intent was that the situation in each city or each borough would be studied as to their ability to assume certain debt burdens in relation with cooperation with the federal government, not exceed that ability. Now, I might point out also that, in these relationships with the national government, the national government itself would also make and ascertain the feasibility and economic feasibility of the communities supporting the burden that they desire to assume.

SECOND VICE PRESIDENT: Are there any other questions? I now come to Section 6, which is about the University, are there any questions? Miss Awes.

AWES: I was about to ask a question on Section 5.

SECOND VICE PRESIDENT: Miss Awes is recognized on Section 5.

AWES: I was wondering, "The State and its political subdivisions may cooperate... to the extent consistent with the laws of the United States, with foreign nations." I don't have the United States Constitution here, but I thought that the federal government had the exclusive right to cooperate with foreign nations. Just what did you have in mind there?

V. RIVERS: Delegate Awes, I'm trying to recall just what took place in connection with the committee amendment. We had one here the other day and were discussing it at the time this article came up and I do not believe it was submitted.

SECOND VICE PRESIDENT: Delegate Harris, do you wish the floor?

HARRIS: I might clear up a point here. In a committee meeting the other day the Committee met and agreed to delete the words "with foreign nations". It should have been pointed out.

SECOND VICE PRESIDENT: That will come up in due course.

HARRIS: It was all of line 12, up to and including "foreign nations" in line 13.

SECOND VICE PRESIDENT: Let us specify that when we get to the amending process. Any other questions on Section 5? Mrs. Hermann.

HERMANN: I'd like to know if the Committee has a special preference, for some reason, for that statement about the "respective legislative bodies may appropriate". Is there some particular reason for expressing it that way?

V. RIVERS: Mrs. Hermann, at times the legislative body of your city or your borough may desire to authorize certain funds for expense in getting cooperation with the national administration on some grant-in-aid project and they are specifically allowed to so do under this terminology, or these terms, "respective legislative bodies".

HERMANN: Then your're not limited then to the legislature, but to the legislative body of boroughs?

V. RIVERS: Yes, that's correct.

SECOND VICE PRESIDENT: Does Delegate Hermann have in mind the expression "governing bodies" or some other?

HERMANN: No, I thought they meant the legislature and I wondered why they didn't say so.

SECOND VICE PRESIDENT: Style and Drafting will take note of that

problem. Are there any other questions on this Section 5? If not, we will proceed to Section 6. Mr. White.

WHITE: Mr. President, may I ask a question of Mr. Rivers?

SECOND VICE PRESIDENT: You may.

WHITE: Mr. Rivers, in Section 6, the sentence beginning on line 6 says: "... and shall have title to all the real and personal property, now or hereafter set aside for ... which shall be held in public trust". Now, I wonder if the Committee considered the occasion that might arise when an individual would want to leave some money to the University to be spent, let's say, immediately for some capital improvement, but that his money might be in the form of securities and if he is forced to sell the securities and give the money to the University he has to pay a capital gains tax on those securities, whereas if he gives the securities directly to the University and let them sell them they are not taxable.

V. RIVERS: Following your thinking, Delegate White, it would appear to me very desirable that we consider inserting in there something in regard to just such benefits that may come to the Territory in some form that covers real and personal property, and "personal property" might cover that, but the words "shall be held in trust" may have to be enlarged upon a bit here as we go through the amending process. I'm going to give it some more thought and, if necessary, I speak for the Executive Committee when I say we would be glad to meet on this particular point with anybody that has questions.

SECOND VICE PRESIDENT: Are there any other questions on Section 6? If not we will start the section by section consideration for amendatory purposes. Is there any amendment to be offered to Section 1? Mr. Johnson.

JOHNSON: Mr. President, isn't the procedure provided for by our rules, doesn't it require now that a recess be taken and amendments submitted to the committee?

SECOND VICE PRESIDENT: That would be the procedure unless it is the desire of the delegates to waive. If there is no expression in regard to waiving that recess, we will -- Mr. Kilcher.

KILCHER: Mr. President. I ask for unanimous consent that we waive this ruling.

V. RIVERS: Speaking for the Committee we have no objection.

SECOND VICE PRESIDENT: Is there any objection to waiving the recess and going on with the section by section reading and the amendatory process? Mr. Johnson.

JOHNSON: Yes, I object. I have a matter or two that I would like to discuss with the Committee.

SECOND VICE PRESIDENT: Would you indicate about how long a recess you would like?

JOHNSON: I have no idea, a few minutes.

SECOND VICE PRESIDENT: All right, let us recess then for 10 minutes if there is no objection.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order. We have before us the amendatory period as to Committee Proposal No. 12. Are there any amendments to Section 1? Mr. Victor Rivers.

V. RIVERS: Mr. President, we have one amendment to Section 1, and the Secretary is now bringing it to give to the Chief Clerk.

CHIEF CLERK: "Section 1, line 1, delete the word 'shall' and insert the word 'may'."

SECOND VICE PRESIDENT: What is your pleasure?

V. RIVERS: Mr. President, I move unanimous consent for adoption of the change as recommended by the Committee on this amendment.

SECOND VICE PRESIDENT: Mr. Boswell.

BOSWELL: Mr. President, I'll object for clarification.

KNIGHT: I'll second it.

SECOND VICE PRESIDENT: Seconded by Mr. Knight. Mr. Victor Rivers.

V. RIVERS: Mr. President, the intent of the section was that the legislature would provide a merit-principle system. Now, it has a merit in allowing it to stay in there with the word "may", it has a merit of appearing as a directive to the legislature from this Constitutional Convention. The use of the word "shall" there originally instituted making it mandatory, some felt would possibly impose an undue burden on the legislature early in their statehood activities. There was another statement made in the Committee that there had been some opposition to a merit system by various department heads who preferred to have the freedom of pirating the various employees from the different departments at will. I'm going to ask Delegate Johnson to mention his comments on this, also.

SECOND VICE PRESIDENT: Mr. Johnson.

JOHNSON: Mr. President, it occurred to me that this problem of setting up a merit system in Alaska has been with us for a great many years and the legislature so far has never been able to come up with a sound solution that would pass, and it is, I think, an extremely difficult thing to work out on a short-notice basis. I think that if the legislature were, or if it were suggested to the legislature to, set up as soon as they can a workable civil service system, then they might take steps toward creating a legislative council or some other method to go into all of the ramifications concerning it and then over a period of time, after studies had been made and so on, they might successfully design a system that will be workable and usable. If you put in the word "shall" it seems to me that then they are confronted with the necessity of doing it right now and not getting a good system. To me they are going to do it anyway. I don't think the section actually needs to be in the constitution, because I believe that is one of the things that the legislature can do and will do as soon as possible, but if we do want to make some mention of it I don't think it ought to be mandatory.

SECOND VICE PRESIDENT: Is there any other debate? Mr. Smith.

SMITH: Mr. President, I feel that it should be mandatory. I don't think anyone would insist that the legislature hurry its work, if it were possible to take the time to set up a good principle, and I have in mind, the fact that it is difficult, might indicate that the legislature might keep putting it off just as they have in the past. I also recall that the people of California finally had to provide a civil service system through the initiative due to the fact that their legislature kept putting it off. Therefore, I think that the word "shall" should be left in as it is.

SECOND VICE PRESIDENT: Mr. Nolan.

NOLAN: Mr. President, the Legislative Council is making a study now with the intentions of having a bill introduced at the next session.

SECOND VICE PRESIDENT: That is correct, and it may or may not pass. The study would be helpful in any event. Mr. Taylor.

TAYLOR: Mr. President, we do have a modified system of the merit system in effect at the present time. All those Territorial agencies who handle government funds like ESC and the Health and Welfare Department with federal matching funds, they must have a merit system; so there are a lot of employees, Territorial employees, that come under the system now. I think possibly it could be enlarged to take care of the balance of them.

SECOND VICE PRESIDENT: Mr. Metcalf.

METCALF: Mr. President, just one little thought. I personally prefer the word "may". I visualize possibly, if it is left mandatory, that after Alaska becomes a state, possibly some discharged employee might bring suit against the State of Alaska in violation of its constitutional right.

SECOND VICE PRESIDENT: Is there any other debate? Mr. Gray.

GRAY: Mr. President, I have one question. Does that mean all the persons employed, even if employed for one day, is there any limitation on that? Is it broad enough to differentiate between temporary employees and permanent employees?

SECOND VICE PRESIDENT: The Convention will be at recess for a few moments.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order. We are off the stenotype performance but we are on the tape. Mr. Johnson.

JOHNSON: Mr. President, I move, inasmuch as our stenotypist seems to be ill, I move that we stand adjourned until 9:00 o'clock tomorrow morning.

GRAY: Point of order. I wonder if I could have an answer to the question I just put?

SECOND VICE PRESIDENT: I will have to rule on the point of order. I presume a motion to adjourn is always in order and would overrule the point of order. Mr. Johnson, there has been no second, so you may yield. Mr. Rivers.

V. RIVERS: I will ask Mrs. Nordale to answer the question for the purposes of the record.

NORDALE: First, I would like to say that with reference to the merit system that Mr. Taylor referred to, there is no law on the books of the Territory that takes care of that. That is a requirement of federal law and applies only to certain agencies. As far as the working of a civil service system, there are always exempted positions such as part-time employment and various types of employment that usually, I imagine, are always exempted; and it does not ordinarily apply to elected or appointed officials and there is a certain group at the top level of government that are completely exempt from the operation of a civil service system. Many others are classified, and there are the other exemptions at the lower level.

SECOND VICE PRESIDENT: Mr. Harris.

HARRIS: Mr. President, I think the question that Delegate Gray was asking was, would we have to classify all the employees. The first sentence says "the legislature may" so it would be up to them to set it up.

SECOND VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, may I have the floor on a point of personal privilege?

SECOND VICE PRESIDENT: Is there any objection? If not, you may have the floor, Mr. Cooper.

(Mr. Cooper then spoke on a point of personal privilege.)

SECOND VICE PRESIDENT: I will have the Administration Committee give an estimate on how much transportation there is. Mr. Coghill.

COGHILL: Thank you, Mr. President. Well, there are eight hands up, so that is eight cars. We could group the people together and what we haven't got for cars, we could probably get a couple cabs out here and it would only cost \$3. We could get six people into a cab.

SECOND VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, I move that we adjourn until 9:00 o'clock tomorrow morning.

COGHILL: I'll second the motion.

SECOND VICE PRESIDENT: Are you ready for the question? All in favor say "aye"; opposed, same sign. The "ayes" have it and the Convention is adjourned.