

ALASKA STATE LEGISLATURE

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

November 4, 1963

MEMORANDUM

SUBJECT: Proceedings of the Alaska Constitutional Convention (1955-56)
as they relate to the Article on Local Government (Unofficial)

TO: The User

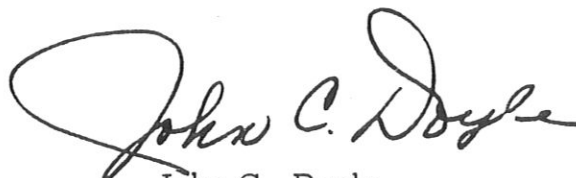
Attached are extracts of portions of three day's proceedings of the Alaska Constitutional Convention (1955-56) which relate to the second and third readings and adoption of Committee Proposal 6a as Article X of the Alaska State Constitution.

The extracts cover that portion of the proceedings of January 19, 1956, which were concerned with the second reading of the subject; the proceedings for January 20, 1956, when the discussion, debate and amendment in second reading of Committee Proposal 6a was completed; and that portion of the proceedings of January 30, 1956, when the completed Article X was adopted by the Convention.

The proceedings extracts for January 19-20, 1956, are paged. The proceedings for January 30, 1956, have not been proofread or paged.

The extracts are part of a project of the Alaska Legislative Council to make a limited run of the daily proceedings of the Alaska Constitutional Convention for deposit in court and public libraries of the state. The original manuscript of 1955-56 was incomplete. The Council project has been to transcribe all the proceedings directly from the recording tapes used, and type, proofread, and duplicate the manuscript for library deposit. The project is now nearing completion as far as the editorial portion goes, but the duplication is being done as time allows.

No portion of the project has an official status as far as the Legislative Council is concerned until the entire project is completed.



John C. Doyle
Executive Director

Att.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Now on page 5, would the Chief Clerk read that sentence, down through the proposed new matter if it were adopted.

CHIEF CLERK: "Leases and prospecting permits giving exclusive right of exploration for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals,".

PRESIDENT EGAN: Mr. Riley asks unanimous consent that these amendments be adopted. Is there objection? Hearing no objection, it is so ordered. The Chair notes in the gallery a large number of school students and their teachers and we are very happy to have you with us this morning and hope you enjoy the proceedings of the Convention. Are there other amendments to Committee Proposal No. 8/a? If there are no further amendments we will proceed with the second reading of Committee Proposal No. 6/a. Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to have about a one-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read Committee Proposal No. 6/a for the second time.

(The Chief Clerk read Committee Proposal No. 6/a in its entirety.)

PRESIDENT EGAN: Does the Chairman of the Local Government Committee desire a recess at this time for the purpose of allowing delegates to submit amendments or suggestions as is suggested in the rules? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think the Committee would rather that we give an explanation of the article first and then ask for a recess for any amendments that might be proposed to the article.

PRESIDENT EGAN: Mr. Rosswog, do you desire to begin the explanatory process at this time?

ROSSWOG: Yes, I would, Mr. Chairman. I think before we go into a discussion of the proposal section by section, I would like to give the delegates here some of the thinking and the consideration that the Committee has given to this matter. In

our proposal we have tried to keep it as simple as possible. In the local government setup, we often consider it is quite complex, but by setting up just the two classifications which would have authority and taxing power we have tried to keep it fairly simple. Other divisions of local government would have to fit into these two categories. We did believe that the problem in the older states has been where many different government divisions are set up, it has finally come to the point where it is almost impossible to understand them. In fact, the people in these states often know much more about their state government than they do about their local government. The Committee, being from all over Alaska, knowing its problems in the thinly populated areas and in the smaller cities and also in the larger cities, we tried to fit this proposal to each section, and I can say that right from the start the Committee has been in general agreement on this article. We have our members like Mr. Cross and Mr. Londborg from the very thinly populated and scattered sections; Mr. Lee and myself from the smaller towns; Mr. Doogan from one of the larger towns; and Mr. Rivers and Mr. Fischer from one of our larger cities. But we still agreed in general principle on this article. In considering what we would need, we thought of some of the nations of Europe where their local government is divided into many little districts. In those countries they seem to fit together and work, but we have quite a different problem here where our population is so scattered. The South American countries had somewhat the same setup as in our proposal but the people are not used to governing themselves on the local level. We felt that our people were able to govern themselves locally and that we should give them as much self-government as possible. We have tried to tie these two local government sections together because we found like in sections of Western Canada where they have set up a rural community and an urban community, separately, much of the section remains unorganized. In British Columbia, where it is set up in that manner, about 99 per cent of the area and 25 per cent of the population resides in unorganized areas, so we thought in our proposal we should tie both the cities and the boroughs together. We have a great opportunity here, and we can take advantage of the lessons that have been learned in the states, we believe, where they have gone through the process of building up a great many local authorities and now they are to the point where they are trying to combine them again. Going into the article, then, I would say that considering Section 1 we have tried to state our purpose in local government. We believe that we should just draw the outline of this local government structure; we should leave a great deal of it and will need a great deal of help from the state in setting up the exact boundaries and the exact laws and the rules under which they shall operate. The establishing of the two categories of local

government as boroughs and cities we felt that that would keep it simplified as much as possible. The powers of boroughs shall be provided by law, and we felt that in order to have good local government in Alaska, the whole state should be divided -- we would not want to have loose sections here and there, and that in setting up this program the boundaries should be laid out. The powers of the boroughs would have to be left to establishment by the legislature to a great extent. We do think that the governing body of the borough should be outlined, and after establishing our boroughs or what the general plan should be, the areas or other government powers, such as service areas and other services that can be supplied, how they should be established under the borough program. In service areas we think that every section of service could be worked into this plan. Of course, we have school districts and power districts and other authorities, and they should be under the control of the assembly. In Section 7 we allow for the boroughs remaining unorganized until they are able to take on their local government functions. The cities will, of course, remain as much as they are today or with possibly slight changes. Section 9 allows for charters and how they shall be set up and also allows, in Sections 10 and 11, for home rule powers. This does not necessarily mean that they should all be under home rule but that the legislature can set up, of course, optional charters, and they will be subject to law. The boundaries, we think, are quite an important question and should be under some agency which can establish them along the proper lines. They should not be left to the local community; they should be established by a higher authority. We feel, in Section 13, we should be allowed intergovernmental relations. There will have to be times that powers can be transferred back and forth from the boroughs to the cities and also between the local government units. In Section 14, because this plan is left broad and flexible, there will have to be quite a bit of state help in planning and advice that will be necessary. Section 15 merely provides that the special services and areas that are now set up shall be integrated into this system. In all, we have tried, again I say, to keep the proposal simple, to keep it flexible, and to have it fit to all of the Territory.

PRESIDENT EGAN: Thank you, Mr. Rosswog. Do other members of your Committee wish to comment at this time or are you open for questions? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, following up the remarks of our Chairman on this matter, I wanted to outline a few of the things that have been of particular interest to this Committee in arriving at conclusions in regard to local government at the borough and the city level. The problem has been, of course, to try and prepare the way for our future State of Alaska and its local government units to avoid a great many of the problems that have arisen

throughout the states. We all realize that in speaking of the intermediate areas of government in the states, the cities and the counties, that most or many of them were established a hundred years or more ago, a few of them less. However, the requirements of government, especially the intermediate government of counties, has changed a great deal in that time. In the older state arrangements we find that the counties are a potpourri of boards and commissions with overlapping functions and powers and duties. We find that they are not, rather that the counties as such, were established as more or less an agency of the state in administrative matters. We find that they are not governed by a policy-making body which can itself determine the policies under which they grow and proceed and become effective. As a result, I am going to quote a few words from a book entitled The American County Patchwork of Boards. This book is by Edward W. Weidner, who was a consultant with the National Municipal League and is now a professor of political science at one of our large universities. Our policy in arriving at the form of local government was to try and bridge that gap of 100 years or more in allowing our people to provide a form of intermediate local government at what we call the borough level so they can function effectively and efficiently as a government agency. I think it follows out essentially the pattern we have established in this Convention of allowing, from the legislative and the strong executive on down, a considerable flexibility but also an establishment of substantial authority within the hands of the people to decide and determine their own future. Our policy in this Committee, and it has been practically uniform since our early studies, has been that we would try and institute, or allow to be instituted, under this constitution an intermediate form of government by which the people could largely exercise a broad degree of power, except those especially reserved to the state. The old approach to county government was that they existed and had their authorities only in those specifically delegated to them and specifically spelled out to them by the legislature or by the constitution. The other approach which has been adopted and which has operated in a few states, approximately seven as I recall, particularly in Texas, has been called the Texas Plan, and there, under that plan, they allocate such powers to the intermediate tier of government and the cities as are not specifically reserved or eventually withdrawn by the state itself. They have a broad exercise of local authority much as our cities have today. That has been the matter of the choice -- whether we wanted to follow the old pattern in which the constitution and the legislature would delegate certain specific powers to the intermediate form of government, which often is called the county and which we have designated as the borough, or whether we would follow the plan of reserving powers to the state and letting

the local government exercise broad general authority within the limits of those reservations. That is, as I see it the foundation of the plan of government for local government which we are presenting to you here now. So along that line, I just wanted to quote to you a few items from this particular book which is particularly appropriate for consideration at this moment. In the paragraph which I am going to read, it is under the heading "Old Confusion in a New Day": "Although county governing bodies are acquiring more and more functions of a policy-determining nature, they are still organized primarily as administrative and judicial instrumentalities of the states. This fact has important implications for the future of local government. Unless counties can organize properly to carry out modern local government functions, they are likely to find their duties gradually transferred to ad hoc or state agencies." It goes on to state in this article and quotes many excellent references, a number of which I have read, that the policy-making and determining power of intermediate stage of government and at the city level is an essential, not only to their performing the duties required within the local government structure, but also to their very existence. And then it tries to summarize and show a variety of the various powers and boards and commissions that have been allowed to be established under many of the state constitutions. It says it is difficult to designate a group of functions as those characteristically belonging to county governing bodies because of the many variations from state to state and county to county. It goes on further to say that in many ways the tendencies of the states have been similar, they have been patterned one after the other. It shows the lack of authority and control directly within any body in the county. It shows the various boards and commissions set up by the legislature to perform some one special function such as health, education, sanitation, roads, and they all overlap in their jurisdiction. There is no central policy-making body, they all have one function to perform, and as a result we have a multiplicity of confusion piled upon confusion. I will quote again: "Likewise, a county governing body frequently does not have control over policies affecting the county which are made at their own local level. Special boards and commissions and separately elected officers are frequently outside of the range of its effective control. The process of separation is made complete in many cases by the creation of independent units of government to perform special functions in the county. A county governing body with the large powers of home rule and of supervision over all county activities is difficult to find." Our approach to this problem has to be to try and establish at the intermediate tier of government a body which has broad general policy-making powers derived from the state, certain of which were reserved to the state but not to hamstring them... with this multiplicity of boards, special commissions, special

function groups, over which the group as a whole, or the governing body of that area as a whole, has no control. I am emphasizing this again because I am trying to point out the general basis of the thinking which went into this program which we are presenting today. Quoting again, "The best practice in cities has resulted from the council-manager plan under which council members do not administer the program. They formulate, but hire expert management for the task. Council members are responsible chiefly for over-all policy. In marked contrast members of county governing bodies usually exercise nominal control over a few matters of policy and some control over a variety of administrative detail but little effective control over either. A third of the county governing bodies in the United States have members who are accountable not only as county administrative and legislative officers but also as judicial and township, town, or city officers. There you have the overlapping of functions between the city and the intermediate tier of government level, and it has been done largely because it was the only way in which they could effectively handle and carry out the duties and the job which they had to do for the people whom they were employed by." I wanted to point out that while I have referred here to a Texas Plan, it does not mean it is limited to the State of Texas; it happens in some of their amendments the State of Texas chose to delegate to their intermediate tier of government those powers which were not those specifically enumerated but those powers which were not specifically withdrawn or reserved or withheld to the state, and it has proven to be an effective form of government at the intermediate tier level. Now, we have throughout the states a series of programs in which many cities have outgrown their boundaries, they have lapped over into their surrounding areas, we find a great deal of suburban development because of the increase in good quality highways, an increase of automobiles, and easy transportation to and from their businesses and their work, so we find a considerable number of counties throughout the states trying to consolidate the functions of the surrounding rural areas and the cities which occupy them. I don't believe there is any of us in this room that think that any one city or any one area exists by itself, independent and complete and sufficient unto itself, and all of us know that we live and must work with and do our business with our neighbors not only in the town but also in the surrounding area. We all know that the wealth and the prosperity of practically all of our cities in concentrated population groups springs from their association, their business, and their holdings with the surrounding areas which bring business to them and which in turn derive benefits and do business with them and from them. It cannot be held, I don't think soundly, that any one area stands by itself alone and for itself. We must give consideration to the interests of both groups and their interrelated interests, one with the other, and in this arrival at the plan

we present to you here, it has been with the intent in mind that that would be one of our underlying purposes, that in allowing this form of government to be established locally rather than allowing a series of conflicts and confusion and unhappiness to exist which took great difficulty and struggle to unravel, we would allow it in such a way that we would base our plan of thinking upon cooperation of those elements, and in such cooperation that rather than spending time, money, and energy in conflict, they could spend the same time, money, and energy in cooperative growth and progress. I feel I speak for all the Committee when I say that has been our underlying purpose and we present to you here today the efforts of our most sincere thinking in regard to that approach. I don't want to take any more time. I have tried to give you some of the broad general attitudes which we have adopted. We have gone into great detail in this study. We have had consultants who have consisted of Dr. Bartley, Dr. Cooper, Dr. Ostrom, Mr. Bebout, and Dr. Kimbrough Owen. We have studied the best references in our legislative reference, our work presented to us by the Public Administration Service. We have gone into many, many volumes and handbooks in regard to the difficulties and problems of local government, and I feel the Committee has prepared itself well to present this plan to you and to help you resolve your thinking on the matters which it contains. X

PRESIDENT EGAN: Are there other committee statements? Mr. Fischer.

V. FISCHER: Mr. President, I would just like to very briefly point out the importance of establishing a good system of local government to the future success of our state. I think that fact can best be borne out by a few quotations from a report to the President and Congress by the Commission on Intergovernmental Relations. This commission was established in 1953 by law of Congress. It consisted of a number of senators and representatives and governors of various states and heads of federal executive departments. The Commission concerned itself with the need for strengthening of state government and a decentralization of federal power. In this study they found that local government is an important factor in this process and I would like to briefly quote a few paragraphs. In discussing the strengthening of local government, the Committee says, "The objective of decentralization cannot be obtained by a readjustment of national-state relations alone. It will be fully achieved only when carried through to the lowest levels of government where every citizen has the opportunity to participate actively and directly. The strengthening of local government requires the activities that can be handled by these units be allocated to them together with the financial resources necessary for their support." Then the report goes on and draws a picture of the tremendous number

of overlapping tax jurisdictions and separate local entities we now have in the state and goes on to say, "More or less hidden in this picture is a paradox that consistently plagues the state and bars any easy solution of the problem of achieving the decentralization of government -- too many local governments and not enough local government." That is one of the points that we have tried to meet here, not to establish too many local governments but those that would be established would be effective to carry out not only the local but also state functions as may be necessary. The report then goes on to say as follows: "The states have the constitutional responsibility for the future development of local government. This responsibility has two important aspects. One is to create local units of government that are efficient units for providing governmental services. The second is to maintain a system of local government that achieves the traditional American goal of extensive citizen participation in the affairs of government. The states must be alert to the reality that modern technology continually creates new techniques that give rise to new demands for public services and new methods for rendering them as well as new channels and patterns of communication in common action among citizens. These in turn alter the optimum size and shape of local units. Although the effects of these factors are not necessarily the same, they all point to the need for a bolder use by the states of their powers over the incorporation, annexation, elimination, and consolidation of units in order to promote both efficiency in citizen participation in local affairs." Now the article as proposed by your Committee on Local Government attempts to provide the kind of flexibility that is pointed to in this particular section as being necessary to meet the needs of a growing technology. In Alaska it is particularly important that we provide a local government system that will have the maximum amount of flexibility with the maximum amount of home rule, and at the same time with the maximum amount of state interest and participation in local affairs.

PRESIDENT EGAN: Mr. Barr.

BARR: I move that we recess until 10:52.

PRESIDENT EGAN: Mr. Barr moves that the Convention stand at recess. Mr. Rosswog.

ROSSWOG: The Local Government will meet in the gallery.

PRESIDENT EGAN: The Local Government Committee will meet in the gallery immediately upon the recess. Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet around Mrs. Hermann here on the floor.

PRESIDENT EGAN: The Committee on Style and Drafting will meet on the floor at Mrs. Hermann's desk.

BARR: That clock seems to be wrong. I have 10:40. I move that we recess until 11:00.

PRESIDENT EGAN: Before we put the motion, Mr. Rosswog, do you anticipate that it might be better that we have a longer recess at this time? There might be many of the delegates --

TAYLOR: I was going to suggest that in view of the fact the Committee is meeting it might be better to enlarge the recess until 11:00 or later.

PRESIDENT EGAN: If there is no objection, Mr. Barr, we will say that we will recess until 11:00.

BARR: Will we be able to ask questions after the recess?

PRESIDENT EGAN: That is correct, but it is if the delegates might have questions, they might be cleared up during recess. Mr. Rivers.

V. RIVERS: Before we go into a detailed amending session, I for one hope we can have a good broad general floor discussion after we reconvene.

ROSSWOG: Just a short recess now would be satisfactory.

ARMSTRONG: Could we find out if the young people are going to stay here until noontime. This is a half-hour here that they will probably wonder what they can be doing.

PRESIDENT EGAN: What is the situation in the gallery. Are they planning to be here all morning?

SECRETARY: They will be here all morning.

PRESIDENT EGAN: That being the case, the Convention will stand at recess until 10:55.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do any of the delegates have questions to ask of the committee members? Mr. Barr.

BARR: Mr. President, I have two questions I would like to ask from any member. I don't particularly like the word "borough"; I don't like the sound of it, and I think it's confusing to

some people; as a matter of fact, if they don't know how to spell it, they might confuse it with another kind of burro, which is a donkey. I have nothing against donkeys, I think it is a great American symbol myself, but I do believe in standardization and simplicity. I would like to ask what other words were considered as names for this local government and why could we not use the word "county" but still have our own form of county government?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Barr, this term and the name came under considerable discussion in the Committee. We did not come out with any name that we were completely satisfied with. We did think that "borough" was possibly the best we could come up with at this time, probably because of the definition which is a town or place organized for local government purposes. It did not hold it to any particular size. We had considered "county" and felt that the feeling against the general definition of "county" was bad, that most people did not like it. We did consider a lot of names and I would be glad to have them read here and the delegates could hear the different names that had been suggested.

HERMANN: Mr. President, they are all listed in the commentary, I don't think it is necessary to repeat them here.

ROSSWOG: I don't believe they were all put into the commentary.

BARR: I don't believe it is necessary to read all of them, but I would like to know which ones you seriously considered.

ROSSWOG: Well, we did go through these names and as we felt that they could not be used we cut them out until we had gotten down to possibly, if I can pick them out here, the last we considered were "county", "township", "rural municipality", "division", "district", and a few other names of that type. We thought that most of them had definite meaning in Alaska or a good many of them were used in other places in Alaska and would be confusing there. We finally settled down to "county" or "borough", and we decided upon the name of "borough".

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I address a question to the Chairman of the Committee?

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

JOHNSON: Mr. Rosswog, what has happened to the independent school district in this proposal?

ROSSWOG: Well, I believe it was the feeling of the Committee that the school districts should work into the borough government, that they should have their own possible governing body but it would be under the over-all supervision of the assembly.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Chairman, I have several questions I would like to direct to the Chairman. In Section 2, "All local government powers shall be vested in boroughs and cities." In other words, in answering your question to Mr. Johnson that a school district would be a subdivision of a borough, an independent school district, is that the purpose, Mr. Rosswog?

ROSSWOG: Well, it was felt that the assembly could delegate powers to other boards, but as far as the actual governing --

COGHILL: The borough may?

ROSSWOG: Yes, but it would reserve, of course, your taxing power or over-all supervision.

COGHILL: In other words, the borough could not delegate a taxing power to a specific independent school district. Supposing your area is quite large and in one area you have an independent school district?

ROSSWOG: We do have a provision in Section 6 where the assembly may authorize the levying of such taxes, charges, or assessments within a service area as may be necessary to finance the activities.

COGHILL: That, Mr. Rosswog, was my next question, or a question I have is on that service area, but in other words, in your Section 2 that you say that boroughs and cities are the only ones that will be delegated the taxing powers, that is from the state level to that local government level, and the coordination between school districts and your executive branch of your state government would be and work through the borough assembly?

ROSSWOG: Yes.

COGHILL: And the borough assembly could promulgate rules and regulations not inconsistent with the state rules to take care of the local government school districts?

ROSSWOG: I think that is correct.

COGHILL: Further on in Section 3, I would like to ask you, Mr. Rosswog, on line 6 of page 2, "Each borough shall embrace, to the

maximum extent possible, an area and population with common interests." My question here is directed to you to find out what the Committee's thinking was as to boundary areas of local government. Could you give us any light on that as to the extent? I know that you have delegated the powers to a commission, but you have said that each borough shall embrace the maximum extent possible. I am thinking now of an area that has maybe five or six economic factors in it -- would they come under one borough?

ROSSWOG: We had thought that the boundaries should be flexible, of course, and should be set up so that we would not want too small a unit, because that is a problem that has been one of the great problems in the states, the very small units, and they get beyond, or they must be combined or extended.

COGHILL: For instance, would Fort Yukon, Big Delta, Nenana, Fairbanks be in one borough?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, it would not seem to me that that would be a feasible arrangement. The matter of size is one that changes with time, and the trend in the states is as the population increases is to give larger areas and consolidate counties into larger groups. They had a great deal of trouble in the old days because they could not travel so very far and they tried to tie a county down to the size you could drive a horse to the boundary and back in one day. That concept has fallen by the board. The idea of how large these would be would have to be determined by the state advisory group in local government working with the people to decide as to what extent their boundaries should cover. That doesn't mean one type of economy; most any area will have a composite type of economy. You have a common interest in certain types of economic activities, and insofar as possible, it would be the determination to try to make an entity or an area that had common interests but would not be so big as to be unwieldy but would not be so small as to be too expensive. It is a matter of the exercise of judgment which has been left to the local level with the advice and assistance of the state department in connection with local government.

COGHILL: Mr. Rivers, I realize it is being left to a power, but I was trying to get the Committee's thinking as to how big they would be. Would they be about the same size as our election districts as set up by the apportionment board, or smaller?

V. RIVERS: I did some research on size and counties, Mr. Coghill, and the Texas Charter set up that the counties should be 900 square miles. Now, there are other areas that run up as high as

2,500 square miles, and that is in the nature of a large county, although in some counties they run as high as 4,000 square miles, but that is in isolated instances; but around the neighborhood of anywhere from 1,000 to 2,500 square miles seems to be about the average of the larger size counties.

COGHILL: That answers my question on that. On Section 6, Mr. Rosswog, on Section 6, you say "Service areas to provide special services within portions of an organized borough may be established..." That would be your independent and incorporated school district? Also your health areas, public utility districts -- is that the purpose of that?

ROSSWOG: It could be.

COGHILL: But the assembly has the full power to abolish a school district without the consent of the people that it is governing?

ROSSWOG: No, not necessarily as we have it set up. It would be according to law.

COGHILL: Subject to the provisions of law. I am trying to get the intent of the Committee so I can read between the lines on some of these things here.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: If I may say something on that, the Committee spent a lot of time in trying to point down specifically how school districts would fit into this plan. Now at this time we have generally two types of districts: one is within the limits of an incorporated city, and the other type that is used in a number of places is the independent school district which covers a city and the surrounding area. Now, what we have tried to do was to leave the way open to independent school districts under the borough assembly. But at the same time, we could also visualize that in different areas you might want to constitute a whole borough a school district for the purpose of providing some form of self-determination to the people in the whole borough in the field of education, rather than have the educational system, as it is done in most places in Alaska now, directed straight from the state department of education to a specific school. In other words, get some decentralization at least on the policy level.

COGHILL: That was the thought I was following under this local plan, but the one curve that kind of threw me was the fact that the borough assembly could abolish or alter that plan, and it is provided by law, but the law still provides, according to the

constitutional provision, that the borough assembly can do it.

V. FISCHER: The borough assembly could reconstitute an independent school district unless the legislature set up a prohibition against it, number one. Secondly, the legislature can very well, and they probably would, continue to have certain standards for school districts and the borough could not violate such standards if they are established by the legislature.

COGHILL: May I ask you one more question? Would an elected member of an independent or incorporated school district or city school district within the borough have any representation on the borough assembly along with the representatives of the city council?

V. FISCHER: We discussed that matter, also, at length. The problem that came up in that connection was that here we have a general local government and if a specific service like education is to be represented, then health should be represented, if we have a health service area; if we have a fire protection district they should be represented; and what we wanted to avoid in this was the specific seating of people with just one interest on the borough assembly. We prefer to keep this a general governing body so that everybody was interested in the general welfare of the whole borough. In connection with that, there would be no prohibition against the election of say a member of the school board to the borough assembly.

V. RIVERS: I would like to point out a little further on that, that at the present time the school districts and school boards do derive a lot of power from the legislature, they also, they derive a great deal of their revenue for operating expenses. They could under this plan still derive all the refunds under the tobacco tax to their school district. As these boroughs grow and go along there will be a gradual readjustment, but no upset or major change in the present plan until they incorporate and organize as a borough at which time there might be a gradual adjustment of the boundaries. The taxing power exercised by the school districts today is mainly limited to a taxing power for the development of the physical plant and for capital investments, as you all know. The main operating expense of a school district comes from and would continue to come from the state level as would the refunds of all the taxes. There is no design here to upset the school boards, their authority or their receiving of grants of power or money or anything else from the state level. It might eventually lead to a slight adjustment of their boundaries which would be the main change that might result from the establishment of a borough, but I imagine that in establishing it the local body would very well take cognizance of the existing boundaries of the school

district and would probably try to embrace somewhat near the same area or include that area plus some more into a borough. This is not going to be an overnight transition. This might be a matter of five, ten, twelve, fifteen years before this adjustment is made, and I hope I am answering some of your questions in regard to our thinking in visualizing the place of the school board and the school district in the borough and in this type of government.

COGHILL: I think you are, Mr. Rivers, and may I further the conversation by asking you if we have an incorporated school district -- it has fiscal autonomy in that area to which it is incorporated because there is no city council there. Why should they be deprived a seat on the borough assembly when you have over here an incorporated town and they are serving a purpose where the school district is serving a purpose? Why should they not have an equal seat?

V. RIVERS: Mr. President, the idea was that the general powers of government would lie with the general elected representatives of the people. Now as Mr. Fischer has pointed out, the special functions in regard to the use by one group for one special purpose such as health, education or anything else, the power to take the board and take its powers away, the powers of the boards would probably continue except for the taxing power being centralized in the one taxing agency which would then have its own appraising, its own assessing group, its own condemnations. The citizen would not be subjected to two or three different taxing agencies. As to the distribution of the income among the various functions in that borough, it would have to be worked out between the different groups that are participating and have needs, in relation to their needs and in relation to the over-all amount of tax which has been levied.

COGHILL: I see the point you are driving at, Mr. Rivers, but the point that I was trying to arrive at was the fact that we have two independent units within a borough, two independent units, both operating a function of basic government; the city is operating a basic function of government and so is this incorporated school district. And I have not yet got clarified in my mind the reason why an independent unit out here, operating and performing a basic function of government, shouldn't have equal right on the assembly of the borough assembly.

V. RIVERS: In the first place your local government has a multiplicity of functions to serve all the needs of all the people, both at the borough and the city level. The school district has one function, but I want to point out that the legislature or the charter of this home rule group could well

provide if they so desire, that a member of a board or boards could be elected to both offices or could be assigned from that one school board or one health board to a seat on this assembly. We do not preclude that here. We do not say they cannot be elected to that board or that they shall not be seated concurrently; if the people in that area so desire it could well be done under this provision.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to add something to that answer in connection with part of your question -- why the city representatives are to sit on the assembly. Our whole concept has been based, not upon a separation of the two basic units of government, the borough and the city, but as close an integration of functions between the two as is possible. It was felt, for instance, that we should not, definitely not follow the pattern that you find in most stateside counties where you have the exactly same functions being carried out separately at these two levels of government with their own hierarchy of officialdom and separate capital investment. It was our thought that wherever functions overlap that they should be integrated, and from that standpoint it was the Committee's feeling that if we can get the coordination between the city council and the borough assembly we would be able to achieve the maximum amount of cooperation because then each would best know what the other had to offer, they would realize what the problems of the other were, and you would force them, almost, into the cooperation that we hope to achieve in our local government.

COGHILL: Mr. Fischer, wouldn't this do the same thing? Let's take a hypothetical case and set up a borough. In one corner there is an incorporated town; in the other corner there will be an incorporated school district. The reason why those people have incorporated into a school district is because of the fact that they haven't got the taxing power to provide for a corporation. For other reasons they might think that their basic governmental functions at the present time would be to provide adequate schooling for their children; therefore, they have set themselves up as a taxing unit; they have elected their board members; they are running the complete business of that district as a school unit for one purpose -- for providing the most essential, that they think in their minds at the time, the most essential form of government is to provide their children with an adequate education. In the incorporated town they have more people, they have more industries, they have their own school district within their boundaries. The thing I am getting at is that in Section 5 you say that city council members will be on the board and additional members shall be elected by voters living outside the city. That does not give these people sitting

over here the assurance that the money they are paying, the tax dollar they are paying to the borough government, is going to carry out the intent of their forming this district because they will not be fiscally independent. The only fiscal independent governmental structure you have now --

HELLENTHAL: Mr. President, I feel constrained to object to this process as I feel it is not true questioning. Many of the facts stated by Mr. Coghill in his questions I would like to take issue with, but I can't because these are supposed to be questions, not issues.

PRESIDENT EGAN: We will come to that in the amendatory stage, Mr. Coghill. You will have ample opportunity to argue the question on any proposed amendment.

COGHILL: I was only trying to clarify the point. Only one other question and then I'll sit down. Mr. Rosswog, (if I may, Mr. President) Section 13: "Any city may, subject to such limitations as established by law or charter, transfer to the borough in which it is located any of its functions or powers and may similarly revoke the transfer of any such functions or powers." In other words, the city is actually a subordinate to the borough; the borough is the main part of government?

ROSSWOG: Well, in some ways, if the city should transfer functions, the borough-assembly would be over those.

COGHILL: The city is not on an equal plane with a borough. The borough assembly is the governing unit of the whole area including the incorporated cities?

ROSSWOG: Those services that are within the city have been turned over to the borough, but not the over-all supervision of the city.

COGHILL: Their taxing unit is the only thing that would be different?

ROSSWOG: Yes, they can set up their tax rate for the services inside the city. The city can and also the borough can for what they need outside or for combined services.

COGHILL: Thank you.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I would like to ask a question, please. On page 5, in Section 14, in line 21, the term is used "charter drafting agencies". I don't find any place in the article on what a

"charter drafting agency" is or if it is, I have overlooked it. I would like to know what is meant by the term "charter drafting agency".

PRESIDENT EGAN: Can the Committee answer that question? Mr. Fischer.

V. FISCHER: Mr. President, the intent of the Committee, as was pointed out previously, was to grant as much home rule as possible to boroughs and cities. The way that one of these units exercises home rule is through a process of adopting a home rule charter where they are authorized. Such a charter is generally drawn up by a charter commission, usually elected by the people, just like the Constitutional Convention here is drafting a charter for the State of Alaska. It is not the city council that drafts a charter for the city, just as it is not the legislature, and so that the charter drafting agencies referred to here would be this type of special charter commissions that will be preparing the home rule charter for either a borough or a city.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I wonder if I might direct a question to Mr. Rivers as he knows the area I am going to talk about.

PRESIDENT EGAN: Mr. Davis, you may.

DAVIS: Mr. Rivers, I realize that under the article as it is written that the boundaries of boroughs are going to be set by a board established by the legislature. But I would like to pursue a little bit further the question that Mr. Coghill had asked about what the Committee's thinking is concerning areas that might properly fit into a borough, and since I am familiar with it and so are you with our own area, I thought I might ask somewhat of the thinking of the Committee in an area such as that. Would your idea of a borough for the Anchorage area comprise, say the area from Portage to the Knik Bridge or something like that including the greater Anchorage area and possibly Chugiak, or would it include the Anchorage area plus the Matanuska Valley, or would it be, say the Seward area and Anchorage and the Matanuska Valley all together? What is your thinking about the size of an area like that?

V. RIVERS: Mr. Davis says I am familiar with that area. We discussed various areas through the Territory; in our thinking, of course, we must allow for the changes that occur due to the changes required by time and the area which you first described would probably, from Portage to Knik Bridge, would embrace an area of probably 500 square miles or 400 square miles, and would

be about what I would visualize as the initial borough, but I can readily see as 50 years pass by, where, under the consolidation plan some of them might consolidate and bring in the further area you mentioned. The first step would probably be not of a nature so large as to be too unwieldy. The next step, as transportation, communications, and roads develop, might well result in having it twice as large by a consolidation of one or more of these borough areas and their boundaries. Does that answer your question?

DAVIS: Partially. I was just leading up to other questions as you might have guessed. The area that I first described for the information of the other people here, contains now one city, one suburban area surrounding the city, one school district, and another school area which has a Territorial school. Also --

HELLENTHAL: You mean independent?

DAVIS: Yes, one independent school and one school that is run by the Territory. I am talking about Chugiak now. If we had an area such as that, it is all fairly well integrated outside of the fact we do presently have two different school administrations in the area, but if that area were to be expanded and I realize there is plenty of room here for changing boundaries, consolidating as the need may require, but if we took the second area I mentioned, then we would have the area I first mentioned, plus a second major town, a village, and another school district, independent school district now existing, and another school area run by the Territory. I don't believe Wasilla is presently an independent district. I am just wondering how in the world all these things are going to fit in. I am leading up to the fact, particularly on the question of schools; and I suppose I am more interested in that than some others because I have been working with the problem for some time. I don't see any reason at all why schools should not be able to fit into the borough setup as you have mentioned. But I am wondering as to whether it will be workable to have all the taxing authority in the over-all agency. Now, I am afraid I am getting down to making an argument but I think I must do it to get my point across. In the Anchorage area we have had some difficulty, friendly difficulties it is true, but some difficulties about finance, by reason of the fact that the school district and the city were competing for the same taxpayer's dollar actually and some of us have been a little bit worried about the fact that whatever the school district set for its budget was subject to final check by the city whose interests were quite different actually. They saw one side of the picture and we saw another. It appears to me under the proposition that you have now that you have not remedied that situation but in fact have compounded it and have put all the power in the over-all agency which is

concerned in this and this, and the school is only one small part of it. That may be desirable but I would like the thinking of the Committee on that and with particular reference to one question. I will agree in a minute that it is foolish to have separate assessing tax agencies but I wonder why the Committee says that all the taxing power, and by this I mean levying power, should be in the one agency. I am wondering if it could not be worked out just as satisfactorily without upsetting your plan if school districts or cities, if there is more than one city or village in the area, why they could not each levy the amount of taxes they needed within their own area, within these service areas you call them, instead of leaving it up to the entire borough to say, "Mr. School District, you have got to get along with so much money." I know that has worked satisfactorily in the state where I grew up. We had the county which is not a good word here, but we had the county which actually assessed and collected all the taxes but each of the local units within that area levied their own taxes.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. President, I am very interested in Mr. Davis's exposition. I have lived in the Anchorage area and I am familiar with all these facts; everyone else is familiar with their own area where similar problems exist, but I think his argument should be confined to the time set for arguing. I love to listen, don't misunderstand me, I think it's brilliant, but it is out of place at this time.

DAVIS: Mr. President, I don't love to listen to myself but I want the facts and I don't know how else to get them. I'll sit down, thank you.

PRESIDENT EGAN: Mr. Davis, you may ask any questions you wish. The delegates may, if it is the wish of the Committee to hear the explanations at this time from the delegates, the Chair will take that under consideration.

V. FISCHER: Mr. President, Mr. Davis did raise a number of questions in his presentation, some of which I would like to answer if I can remember them all. The point that was brought out about the city has actual fiscal control over the school district; that is quite correct and that is why the Committee has based its plan upon putting the school district under the borough assembly because we realize that the city within an independent school district has other interests, education being separate from the municipal functions. When you come to the borough though, the borough is interested in education. It will be one of the basic functions which it will be responsible for. It may be through school boards; it may be through

other means. It is just like health; it will be responsible for health, and we realize the special needs of education, and at the same time we feel that education when it comes to the tax dollar, must compete with all the other necessary services that are required by the people of any area. It was felt that the borough assembly would best be able to say that so much, on the basis of presentation, say by these districts or boards, that so much can be afforded out of this tax dollar for education, so much for health, so much for police enforcement, etc. So that is the only way you can get a proper allocation fund. Secondly, I would like to point out, as was pointed out previously, the authority does exist to, I will just quote directly, on top of page 3, "The assembly may authorize the levying of such taxes, charges or assessments within a service area as may be necessary to finance the activities." In other words, one could well visualize that the assembly would say that here we have these separate school districts, say there is more than one within a specific borough. They can say, "Go ahead and tax up to ten mills; we feel that is a proper allocation; anything above that you have to justify." I mean, that is just one way that we could visualize that this could be done, but the Committee did not feel that an independent tax levying authority should be directly granted to school districts because then you leave the way open to granting the same thing to health districts. They have been working for that; we have a health district already established within the Territory now. Legislation has been prepared during recent years to establish fiscal independent welfare districts. Once you get started on that, each separate function could well justify an independent tax levying authority and then you are right back to the type of government that we are trying to avoid in Alaska, the overlapping of independent taxing jurisdictions.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I rise to a point here and I want to say that I, as a member of the Committee and most of us, have desired to use the word "participate" in the tax dollar rather than "compete"; there are so many dollars that must perform so many services and I thought, I don't remember whether Mr. Fischer was present at that discussion; but we decided the word "participate" was much more descriptive.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I ask Mr. Fischer a question please. Mr. Fischer, did the Committee consider the fact that so far as independent school districts are concerned, as they are now set up, they are independent corporations organized and existing under the law of the Territory; as such they are legal entities and maintain such

legal entities under and by virtue of the laws as they now exist. Is it contemplated that these corporations will be destroyed or done away with or no longer exist by virtue of this proposal?

V. FISCHER: Mr. Johnson, it was not the intention of the Committee to do away with any existing school districts just by the enactment of this article. The intent was to leave them within a new framework of government. The way they are constituted now they are under the fiscal jurisdiction of municipalities. What we visualize is putting them under the general fiscal jurisdiction of the larger entity which includes all of the people within the particular school district. At the same time I definitely want to point out, and I am sure you will agree that none of us would want to say that just because we are a school district today we would want to preserve it in the same form for a hundred years. We can visualize, and I am sure you could, the expansion of existing school districts, the reconstitution, but we all know that the legislature does have the authority to create and abolish school districts just as they can create and abolish cities.

JOHNSON: I seem to misunderstand the situation slightly because Section 15 of your article, to me at least, indicates that if this article is adopted and this section is adopted, that when the borough is organized, it integrates every special district that then exists within the boundary limits of the borough.

V. FISCHER: That is right.

JOHNSON: Then I seem to be confused by your statement that you have no intention of disturbing school districts but by the same token you are integrating them into the borough. At least that is my understanding.

V. FISCHER: If I may answer that, the intent here is not to destroy the school district but fit the school district into the over-all government that we will be creating, and "integration" is the word that we used here because it would most directly express the intent that the school district becomes part of the over-all functions of the borough.

PRESIDENT EGAN: The Convention will be at ease a moment while the stenotypist changes her paper. The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: I just want to elaborate briefly on the last answer, and that was that the explanation lies in the first sentence of Section 15, "The legislature shall provide for the integration ..." There under that clause the legislature could and would take care of any means of integration in such a way there would

not be a disruption of the program of both this form of local government and the school district's activities.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I will try and enlarge on this business of school districts quite a little since I was one of the members that was quite concerned with this and brought it in. In sitting as a member of the city council I found that the council has a certain amount of money to provide all of the functions within the city that is necessary, schools being one of them. When the cities had the chore of providing for schools entirely for themselves, the schools, of course, were a major problem. On the incorporation of a school district, the school functions were then, in a sense, taken away from the city and handed to the school district with the provision that the city council of a city within a school district could more or less sit on the budget of a school board. This, of course, created quite a little problem and, as Mr. Davis pointed out, some friendly discussion, but sometimes it was not so friendly. The school board would come with their budget that would say that they needed \$300,000; the city in their budget could possibly only provide \$200,000; between those two differences something had to be worked out so that it was satisfactory for everybody, and sometimes it wasn't friendly, and so since that time the school districts have tried in the legislature to get fiscal autonomy so that the council couldn't sit on their budget. The thing that is wrong with that fiscal autonomy is that were they allowed to set their own millage rate, collect their own tax dollar, etc., if they were not careful they could break any municipality within a school district. We put this section in here because, at the moment, some of the people represented here as delegates are quite concerned with schools. Unfortunately, there are many of the other functions that are provided in the cities, would be provided in the borough and provided in the state, that are not represented here quite so strongly. The thing that was tried to be pointed out in this article is that the borough assembly would receive a budget from the school district, would receive a budget for information purposes from a city. In the case of schools they would compare the two, they would try to work it out between them so that everybody would be happy because the borough, in a sense, then has to provide the same, or some of the same services in the over-all borough as the city has to provide within the city. Consequently, with the assembly having more than the one function of having schools, having many other functions and so many tax dollars, then would be able to distribute the funds as equitably as possible. It has been my experience, and I think the experience of a good many others, that sometimes these boards or commissions that have to do with one function get a little over-zealous in some of the things

that they are trying to do, and it is for that reason, to make close cooperation between education, health, city, any other service that you want to provide, that we have tried to set up this plan. Now, in answer to Mr. Johnson's question about the integration of these districts, it is true that they are incorporated and that they are in a sense a little autonomous, but if the assembly of the borough, in integrating the school district with the borough, accepted the liabilities that the school district has, then it would be a very easy problem to integrate the school district with the borough I think.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I might mention right here that I don't think we should lose sight of the fact that the legislature would have the authority to state what types of school districts we should have but it is the tax levying authority which the borough would have, the over-all supervision.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, a little more on the same vein, under Section 6 it is possible for the assembly to delegate, temporarily possibly, taxing powers to other jurisdictions or service functions, is it not? So that it is conceivable that if the people feel, as Mr. Coghill does, that education is a basic form of government, which I don't agree with, but if they do and that something close to present incorporated school district setup is best, and school districts should be fiscally autonomous, it is conceivable that people within the borough could run for the assembly on such a ticket and, if elected, could then delegate that authority to the school district and approximate as closely as they could the present setup within restrictions supplied by the legislature.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I believe it could conceivably happen that way.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Rosswog, if this article were adopted tomorrow and placed in effect in Anchorage tomorrow, the borough would then take the city council's place in approving or disapproving the school budget within the independent school district, would it not?

ROSSWOG: Yes, it would under the independent school district.

HELLENTHAL: The tax collecting and perhaps the assessing would be transferred to one central agency, namely the borough, would it not?

ROSSWOG: Possibly, yes, it would.

V. RIVERS: Yes, it would.

HELLENTHAL: The school boards would continue just the way they are today?

ROSSWOG: Yes, they would.

HELLENTHAL: There might possibly be a boundary change in the independent school district, but only possibly?

ROSSWOG: Possibly, or when it was decided upon.

HELLENTHAL: Now on the incorporated school districts, would there be any change at all if my premise were adopted and this article were placed in effect tomorrow?

ROSSWOG: No, I don't believe there would be.

HELLENTHAL: How many incorporated school districts remain in Alaska?

V. RIVERS: Nine, Mr. Hellenthal.

HELLENTHAL: Incorporated, not independent. I think there is just one in Nenana, isn't there?

COGHILL: We are a city school district.

R. RIVERS: Would Mr. Hellenthal yield for a moment to have me ask you to explain the difference between an independent school district and an incorporated school district? Would you just briefly state the difference between the independent school district and the incorporated school district.

HELLENTHAL: Frankly, I know about the independent school district and I am a little rusty on incorporated, but I know you know the answer on that.

R. RIVERS: Mr. President, I think there is about one incorporated school district in Alaska. The independent school districts are composed of the cities and adjacent areas; and under an act of legislature the cities and the adjacent areas after a referendum within the district can get together for school purposes. A rural area which is in an unincorporated section of the country, such as Palmer used to be before it become incorporated, could form an incorporated school district, which is for school purposes only with tax levying power, without being merged with a city. It is simply an incorporated school district. There is about one of those.

HELLENTHAL: One more question only. If the legislature desires to continue the present plan of city-school district agreement on the budget which, under the assumption, would be city-borough agreement on the budget, they could continue that or they could discontinue it and set up fiscal autonomy if they saw fit, could they not, if this article were adopted tomorrow? Let me put it again. If this article were adopted tomorrow, the legislature, if it saw fit, could make the school districts fiscally autonomous as Ed Davis and Coghill suggested, could they not?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think the legislature could establish it so the borough could grant the fiscal independence, if we are all agreed upon the definition of the words "fiscal autonomy" or "fiscal independence". I think it is a power that could be granted under our section.

HELLENTHAL: I define "fiscal autonomy" as the power to collect and levy your own taxes and fix your own budget without the concurrence of anyone on a local level.

V. RIVERS: I think they could grant that power to the borough which would then in turn have to grant it to the school authorities.

HELLENTHAL: That's my question. Are you sure it would have to come from the borough to the school people if this plan were adopted tomorrow? Is it not still in the legislature to make that change?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Any right that the legislature of the state reserves to itself, of course, the borough couldn't have.

HELLENTHAL: Doesn't the state reserve that right under the constitution and under this article, if this article were adopted?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, subject to any announcements, I am going to move for a recess. That clock is a little slow, by the way.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet at 12:40 o'clock in the ping pong area.

PRESIDENT EGAN: The Committee on Style and Drafting will meet at 12:40. Are there other committee announcements? Mr. Rosswog.

ROSSWOG: Local Government will meet then at 1:00 o'clock in the rear of the gallery.

PRESIDENT EGAN: Are there other committee announcements? If not --

BARR: I move then that we recess until 1:30.

PRESIDENT EGAN: Mr. Barr moves that the Convention recess until 1:30 and asks unanimous consent. Is there objection? Hearing no objection it is so ordered and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may proceed with reading of communications.

(The Chief Clerk read the following communications: a letter from the Stikine Sportsmen's Association of Wrangell signed by Maurice S. Buness, Secretary-Treasurer, stating their recommendations concerning commercial fisheries and wildlife in the constitution; a communication from Senator Estes Kefauver congratulating the delegates on their work in drawing a constitution for the future State of Alaska and pledging his support; a letter from Harry S. Truman wishing success to the delegates in framing a constitution; a letter from the Nenana Hi-Lites, Nenana Public School paper, signed by Judith Leise, Secretary; Gloria Fredericks, Editor-in-Chief; and William C. Williams, Production Editor, expressing their gratitude for being permitted to attend the Convention and also requesting a thumbnail biography of each delegate for their special constitutional edition to be published February 22nd; an invitation from the Business and Professional Women of Fairbanks to attend the March of Dimes Benefit Ball to be held at the Elks Club on January 28, 1956.)

PRESIDENT EGAN: The communication from Nenana will be referred to the Committee on Administration, and the President will see that a letter is written to the Nenana school group. The communications will be filed. Are there other communications to come before the Convention? We have before us Committee Proposal No. 6/a. Mr. Doogan.

DOOGAN: May we revert to the reading of the journal?

PRESIDENT EGAN: If there is no objection we will revert to the reading of the journal at this time. Mr. Doogan.

DOOGAN: Journal of the 51st Convention day, Thursday, January 12, page 2, paragraph 7, insert "R" after "Mr." Page 9, first sentence, after "Mr. Knight", change the word "objected" to "seconded." With those two corrections I ask unanimous consent that the journal be approved as corrected for the 51st Convention day, and I believe Mr. Knight has a journal to report on, also.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the journal of the 51st Convention day as reported back to you by the special Committee to read the journal be adopted. Is there objection? Hearing no objection it is so ordered. Mr. Knight, do you have a report?

KNIGHT: Mr. President, the journal for the 52nd day, Friday, January 13, has been reviewed and I do not find any corrections, and I would at this time ask unanimous consent.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the journal of the 52nd day be approved. Is there objection? Hearing no objection it is so ordered. Is there any other business to come before the Convention before we proceed with Committee Proposal No. 6/a? If not, we now have before us Committee Proposal No. 6/a in the questions and answer stage. Does any delegate desire to ask a question at this time? Are there questions to be directed towards the Committee? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask Mr. Fischer about the matter of there being more than one city within a borough. I take it from the general language that the council of each city would be either part of the borough assembly or be represented on the borough assembly.

V. FISCHER: That is what we have in mind. One example where you might have two cities within one borough would be Juneau-Douglas. I might say we had a specific communication from Douglas asking that provision be made so that in any such form of government they be given representation.

R. RIVERS: Then I want to ask with regard to the number of city council members and the representation from outside the city. At the hearing in Fairbanks one of the people who appeared spoke more or less from the standpoint of the REA and said they did not want the city to preponderate on the assembly because the city is usually in the utility business and might kind of reach out and take advantage of the rural utility service such as is rendered by the REA. What is your thinking on that?

V. FISCHER: Our thinking all the way through has been in terms of not giving anybody control of the borough. The city representation and the representation from outside of the cities on the borough assembly would be according to whatever standards are prescribed by law. It is our thinking that generally a system of apportionment would probably be set up by the legislature under which both population and area would be taken into consideration. Insofar as utilities are concerned, we have discussed that. We have heard from a number of REA cooperatives, and I think it is the unanimous opinion of the Committee that those matters can only adequately be dealt with by a state utilities control agency.

R. RIVERS: You think the state would very shortly come up with a utilities control agency, do you not?

V. FISCHER: I think we have a proposal to that effect.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, on page 2, Section 3, I would like to ask the Committee, on line 4, if the words "to the maximum extent possible" could be construed to mean the largest possible area?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I think that is the intent. It was pointed out here that these boroughs would embrace the economic and other factors as much as would be compatible with the borough, and it was the intent of the Committee that these boroughs would be as large as could possibly be made and embrace all of these things.

WHITE: Is it the thinking of the Committee that the largest possible area, combining area and population, with common interest, would be the most desirable type of borough?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Could I answer on that? I think that was the idea or the thinking of the Committee that they would have to be fairly large but the wording here would mean that we should take into consideration the area and population and common interest to the maximum extent possible because you could not say definitely that you were taking it all in, but as much as you possibly could.

WHITE: Section 4, Mr. President, could you construe the words "shall be conferred by law" on line 15 to mean that the legislature "must" confer all powers and functions appropriate to

local government?

V. FISCHER: If I may answer that, I think the way that should be interpreted is that they derive their powers through law.

WHITE: I wonder if the words don't have a double meaning here.

V. FISCHER: I don't see how it could because I don't think you could force the legislature in any case to confer specific powers.

WHITE: One more question, if I may. I see the wording as to city council members has been changed from the original draft to make it clear now that not all city council members would be on the assembly. The "persons" and "members" being in the plural, I suppose that means two or more council members?

ROSSWOG: That is the feeling, I believe, of the Committee that it would not mean all of the city council members but the representation from the city would be from the city council, depending upon the composition of the assembly, would be prescribed, and they would, whatever they were entitled to, would come from the city council.

WHITE: I wanted to pursue that particular point a little bit and get the Committee's idea as to why people within a city who are not council members should not be eligible to serve on the assembly of the borough.

ROSSWOG: We felt that in order to get integration between your city and your borough, why it would be necessary to have members from the city that were authorized to represent the city. If we set them up as separate members you would have two boards and possibly the conflict between them.

WHITE: Elsewhere it is provided, I don't know the section off-hand, but the composition of the assembly shall be provided by law, and that presumably would state how many council members should be on the assembly. In the light of that I wonder why it would not be advisable, also, to at least make it permissible for voters or individuals living within the city limits who do not serve on the council at least to be eligible to run for the assembly.

V. FISCHER: Still in answer to your first part of the question, and I will let the second question go to somebody else, the feeling was that one system that may well be established for the representation of the city on the borough would be if a city, say, were allocated two seats on an assembly, that two terms, when they expire, or two councilmen would go on the

assembly and when they ran for election the people would know that those were the two that would also serve on the assembly. Of course, again we are not prescribing it that way. There may be reasons why it should be another way. I think Mr. Rosswog answered the other part in saying that the feeling of the Committee definitely was that the maximum amount of cooperation between the two will be achieved by the city representatives being also members of the council.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, if I may carry this just a little further, I still don't understand why, when you can provide for a city-borough coordination and cooperation through allowing city council members to sit on the assembly, and with the additional factor that those members will be limited, why you should preclude any possibility of members from the public at large within the city limits sitting on the borough assembly. There may be qualified people who don't want to take the time to serve on both bodies. I don't see --

ROSSWOG: Mr. Chairman, I believe that in the combinations that have worked out successfully it has been, or there are members of this city council or governing body that also sit on the other, such as county boards, etc. We could set them up separately but we feel you would not have the cooperation between the two that you could have under this plan.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I might just add a word in answer to that. I think that there you find, what we might say, the secret of success we hope to obtain, is in that very fact that only the city council members are eligible for seats on the assembly. If you have it otherwise then you will have a similar situation as we have in many of the city-county relationships where you might have an entirely different group on the county board as are on the various city councils and naturally they will be bringing in different interests and probably working at odds with one another; and, having only the city council members eligible when this assembly meets, you can be reasonably sure that the city interests are going to be upheld; and, also, when the city meets there is reason to believe that the assembly interests will be upheld because you have the certain ones that are serving on both the assembly and on the city council. I know that bears some discussion, but I think if we would attempt to do otherwise it would bring in this possible disharmony as far as the local government plan.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. Rosswog, that means then that the city representation is limited to members of the council? There would be no possibility of, say, two council members and a member at large representing the city on the assembly. Is that what you mean?

ROSSWOG: That is the proposal.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, going back to Section 4, the matter has been mentioned many times about the possible thinking as to the size of the boroughs. I took occasion to check back into the criteria which would be used for the establishment of election districts. I find that except for two different words they are the same as the criteria that you use for the establishment of boroughs: population, geographic features, and the election districts say integrated socio-economic areas, and you say economy and common interests which I think means the same thing. Consequently, I might be led to the conclusion that your thinking could well be carried out by making election districts and boroughs contiguous or congruous, the same area, is that true?

ROSSWOG: It was thought this should be left very flexible. Of course, you would not say they should be the same as election districts because of rather unwieldiness for governing. It would more possibly, and should, take more study of whether the size should bear on whether your governing body would be able to supervise an area of that size.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Hurley, I think we are unanimous in the opinion that many of these boroughs will be substantially the same as election districts but that is just the idea that we had in mind. Some of them won't be feasible, but in our thinking I consider that form of boroughs we felt they would be much the same as an election district.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Did any of you think that they might ever be greater than the election districts in size?

LEE: If that question is directed to me, we did not give it any consideration because actually we have not made any statement about the size. But in our thinking we didn't consider that thought, but it is certainly very possible.

HELLENTHAL: In other words, that the boundaries of the election districts could possibly be maximums governing the size of the boroughs?

LEE: It is possible. It is up to the legislature to decide.

HELLENTHAL: Would it be desirable to make them minimums?

LEE: That would take away the flexible portion which we wish to keep here.

HELLENTHAL: I gather then you would not desire to make them minimums but probably would have little objection to making them maximum.

LEE: I can't speak for the Committee. I would have no objection, personally.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I would like to ask Mr. Rosswog a question. I think it's along the same lines. I notice, Mr. Rosswog, in your first article on local government you said there would be three types of boroughs like you have here, and in that you defined that the "first shall", and the "second-class may" and you left out the third. Is it the Committee's intention that the first-class borough may or shall, will be the ones that are fiscally capable of taking care of their local government problems, and the other classes are ones that are unable to? Is that the reason why you placed the three classes in here?

ROSSWOG: That was our first thinking that they would be established somewhat along those lines, but we felt we could not set up exactly the class until it had been gone further into because three might not be a magic number or there might be some other classes.

COGHILL: But that was your intention?

ROSSWOG: Somewhat along that line, yes.

PRESIDENT EGAN: Are there other questions to be asked of the committee? Mr. Poulsen.

POULSEN: May I ask the Committee a question?

PRESIDENT EGAN: You may, Mr. Poulsen.

POULSEN: It is in regard to simple sales tax, probably Victor Fischer and Victor Rivers are more familiar with what I am trying to drive at. In the last several years we have been trying to put in a sales tax around the Anchorage area and the reason that I believe it has been voted down is that the school district is outside of the city which would have to have part of their

money; for instance, you had two per cent inside of city limits, you could not have more than one per cent outside of the city limits. That was the reason it was voted down. Now, with this new system here coming in, would it be a standard of taxation so far as sales tax is concerned? Two per cent, for example, would go to the boroughs and outside of the city and two per cent so there is no discriminating against the people living inside of the city may go outside the city where there is smaller sales tax?

ROSSWOG: I could answer for the Committee, I believe, on that --

POULSEN: You are setting up three classes of boroughs and this borough you -- (Balance of question inaudible)

ROSSWOG: I believe a tax like that is set up by the legislature and they would put their rules on it. This would not make any difference whatever rules they decided on. That could be accepted by the district.

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

SMITH: Mr. President, are we on Section 5? Is it permissible to ask questions on Section 5 at this time?

PRESIDENT EGAN: You may, Mr. Smith, if you wish.

SMITH: To any member of the Committee -- the words, "The composition of the assembly shall be prescribed by law..." has me just a little bit puzzled. I know that the Committee has discussed this and I would like to know their thinking. I will ask first, was it the intention of the Committee that the legislature should prescribe the numbers of the assembly?

ROSSWOG: I did not get that question.

SMITH: The question was in using the word "composition" on line 17 of Section 5, where you say "The composition of the assembly shall be prescribed by law." Was it your intent that the legislature would prescribe the numbers of the assembly either from the city or the borough or from both?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Yes. I believe that was the idea that it should be left open because you may want different numbers or different representation on it which could be set up by the legislature or by the charter.

SMITH: Well, where you say "shall be prescribed by law", as I see it, that would have to be by general law applying to all

cities, and it leaves a question in my mind as to whether it would be able to set up the numbers or the composition of the assembly by general law.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I think our aim here is to try to make it flexible so that each situation can be met over the entire state. You will find in some of the state constitutions that they say there shall be so many county supervisors and, of course, then they are elected from certain areas and they re-divide the county proportionately every so many years, so they have approximately the same number of people or area to represent, but I believe that Alaska is going to be such that there will be a varied number as far as the proportion between the city and the rest of the borough, and I believe that our aim here is to give it the flexibility, leave it up to the legislature. If they would say that there shall be nine on the assembly and they shall be divided according to area and population within each borough, then it will be up to the advisory board or whoever sets up the particular borough to say how many shall be from various cities and how many from the borough at large. And it will vary with each borough depending upon what per cent of the population comes from the city and what per cent comes from the rest of the borough.

SMITH: Can't you foresee difficulties here due to the fact that you will have large populations in some areas, maybe two or three cities, and in other areas you may have a very small population, and to set up by general law the numbers to be included in the assembly it would just appear to me it would not fit the over-all situation.

LONDBORG: Just one word on that. It would be an even greater injustice then for us to attempt to set it up here in the constitution, not knowing what the individual situation may call for. Leaving it up to the legislature they may prescribe that it shall be different in the different areas. They have the possibility of making it very flexible as far as that is concerned.

SMITH: My thought ran the other way, Mr. Londborg, to possibly leaving it up to the borough.

PRESIDENT EGAN: Mr. McLaughlin, did you have an answer?

McLAUGHLIN: I was interested to ask the Committee, and I think it probable would answer Mr. Smith's question, under Section 4 they refer to the powers and functions appropriate to the local government requirements of each class of borough "shall be con-

ferred by law," and they refer to classes of boroughs. Isn't it a fact the Committee planned to follow what I believe, for instance, is prevalent in the State of New York -- the legislature would establish various classes of borough charters or boroughs which could be established then to suit the conditions and needs of large or smaller communities?

V. RIVERS: That is correct. Under the city plan of government in the Territory today there are different manners by which they can establish by law. I don't believe there are any charter cities in the Territory today. They could provide two or three optional forms of government by law or they could provide for a charter form which would then give the authority into the hands of the people of the borough to adopt their own charter and that I believe to be the intent of this section.

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

METCALF: I would like to ask a question. I have a general idea but when it gets down to paying the taxes, I am a little dense. I wonder if Mr. Rivers maybe could help me. Just assume, for a hypothetical case, that the district of the entire Kenai Peninsula were made into a borough and I mention that, Mr. Rivers, because you are familiar with it, just as I am. Supposing, according to that system, there would be two councilmen from the city of Seward that would sit on the assembly, or more than one?

V. RIVERS: Well, I would assume, I would say it like this. I don't believe that this word "persons" implies that there shall be more than one. I think it could be any number but it would probably be proportioned upon the amount of the size of the borough there. You might have as many as two or three. You might have nine members in the assembly from the city of Seward; there might be two; Kenai might have one, Homer one, the balance from the sections of the assembly. When we talk about the Kenai Peninsula, I might say for the benefit of the members present, it is an area of about 9,000 square miles, about 3,000 square miles of which is mountainous and the rest of which is arable and very much usable land. I just try to put that across for the picture.

METCALF: How would, say the school in the village of Kenai, who would pay the taxes or how would that be maintained? How would that work?

V. RIVERS: Well, the city of Kenai is unincorporated. They now receive all of their school monies and all of their operating expense for schools from the government from the Territorial level. I don't know what percentage in an organized borough the legislature would desire to refund to the borough, but I can

assume that if and when they are ready to organize into a borough they would have sufficient ways and means to come in under and be able to adopt the borough system of government based upon what the legislature had, by that time, established as the amounts they would give from the state level.

METCALF: Do you think the state would refund some to the borough assembly as they do in the cities now?

V. RIVERS: They do now, and outside the cities they carry 100 per cent of the cost of both operations and physical plant, so I am assuming that if the borough decided they were able to assume part of their burden, the legislature would have set up some precedents for the similar situations over the whole Territory by the time they organize.

METCALF: Then the schools in Kenai, they could either incorporate as a school district or be operated by the superintendent of schools for the borough?

V. RIVERS: Well, that gets down into detail that would have to be worked out. Now, I assume the borough being the over-all governing body would make provision for that type of school operation and government within their area. It would have to be done.

METCALF: Then, everyone in the borough, in the Kenai borough, would pay personal taxes and real property taxes?

V. RIVERS: I don't know how much they would pay. I don't know whether or not the borough would levy a tax. I assume it might, but that would be up to the borough assembly and their representatives as to whether or not they desired to accept that form of government.

METCALF: How about fish traps and things sticking out into Cook Inlet? Would they be taxable or not?

V. RIVERS: It would probably be taxable based upon what we understand to be value. We would have, as I understand it, the way you appraise the value of anything on that kind is based upon the replacement value depreciated plus the land value, plus the earning power of an element. Now it is entirely possible that if you have an asset that is that type of an asset that if the borough desired to set up a taxation program on real property that would also be taxed. It is my conception that it would be.

METCALF: That helps a little, I think.

PRESIDENT EGAN: Are there other questions to be asked of the Committee? Does anyone have a question with relation to Committee Proposal No. 6/a? Is it the desire of the Committee Chairman, if there are no questions at this time, that a recess be declared in order that delegates who might have possible amendments can submit them?

ROSSWOG: I think this might be a good time. I think as far as the last question asked of Mr. Rivers, we should keep in mind, though, that these detailed questions on taxes we also should consider that we are, as we progress and grow, we are going to have some type of rural government and whether we want it on a planned type or whether we shall just let it grow up as it comes along, we will have the same thing, but it might be quite a mess.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Is the entire article open for questioning or are we going through it in order?

PRESIDENT EGAN: We have been in this article just taking general questions.

BOSWELL: I wanted to refer to Section 12 and the local boundary commission. I wondered if that would be a statewide commission or would it be a commission within the borough?

ROSSWOG: That would be a statewide commission, necessarily, because if it were just on a local level then each one would be trying to get their part they wanted and not the others. It would have to be on a statewide level.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, if I may, I would like to ask one more question of the Committee for clarification, possibly to the Convention; it might clear up a couple of points that I was stressing this morning. Is it the intent of the Committee to set up a framework structure, leaving the working part of it to the legislature; that the legislature may prescribe school districts, health districts within that being brought about under the control of the borough?

ROSSWOG: Well, it was felt that it should be left flexible. Of course, we have the outline; the exact details would have to be drawn up by law.

COGHILL: Mr. Chairman, what I was trying to bring out was that in formulating this proposal, you have in your Committee probably

gone through all of this over and over again, and I believe that it is a fairly good article, except that it is just the understanding part of it, and what I am trying to bring out is, like on the school districts, the function of the school districts, the functioning of the health districts or of a statewide road program going through a borough, where the borough has to contribute to it, that are you planning to leave all of that entirely up to the legislature -- not to the borough assembly -- to the legislature?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, our purpose is simply to set up a framework here. The state would of necessity reserve to itself certain functions. Any functions that are not reserved to the state can be assumed by the borough, and even further on down, any functions that are not reserved by the borough can be taken by the cities. The state would of necessity provide certain basic functions. For instance, you take a health district; if in a borough there was nothing in the way of a health district setup, and the state wanted to provide over-all health services throughout the state, the state would do it. However, if in an organized borough there was a health district set up and we will say, for the purposes of clarification, that it was over the whole borough, the state then could very easily delegate whatever it wanted to do to the borough to work in conjunction with the health district already in operation.

COGHILL: Carrying that a little bit further, Mr. Doogan, then, in other words, the borough would have the power under the article to establish a borough department of health, or a borough department of education and be able to prescribe a particular division to head that in their borough?

DOOGAN: That would be true, but there is one thing you want to remember: that it is not necessarily the assembly that is going to do this. Any of these functions they want them to perform would necessarily be by referendum from the people within the borough.

COGHILL: They have the power to do it?

DOOGAN: That is right.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Do I understand correctly that there will be different classes of boroughs and that there could be a borough which would be comprised of an unincorporated area, and in that unincorporated area the state would of necessity have to set up certain functions

and operating procedures, but if we have, on the other hand, an incorporated borough or a borough operating under charter, then the people would then assume their home rule, more or less, and set up their own procedures for handling their own affairs. There would be two different ways of doing things, the unincorporated area and the area that is incorporated under charter?

ROSSWOG: I think that is correct because of the divergence of different sections of the Territory, why, there would have to be several classes.

LONDBORG: I would like to elaborate just a bit on that because I have been naturally concerned about the functions out in what might be unorganized boroughs. I can't quite feature yet some of the areas out in our part of Alaska being organized, at least for some time. They are not ready for it as yet, but if you notice in Section 7, "The Legislature shall provide for the performance of necessary functions in unorganized boroughs." We hope to be included in the various functions that are necessary, such as education, policing, health, and many other functions; and inasmuch as they will be, perhaps, unorganized as they are now, the legislature shall provide, so that it will be a state function very much the same as it is a Territorial function right now, but this is a directive to the legislature allowing for a maximum of local participation and responsibility, shall we say, that is possible in each borough. Now, that is something that I think is very necessary; you can keep the borough from taking part at all to the extent where they, you might say, fall asleep and the time may come when they are ready and they will not have exercised any responsibility and not care to, and I think if the state, through their legislature, will make it possible for them to participate, share responsibility as much as possible, they are going to strive toward organization. By local participation I mean some method whereby the local villages or other areas may cooperate with the state police on a policing system. Perhaps, the state patrolman or the state police can have his men out in these areas elected by the various village councils to work with him, give them certain powers. The state may create an interest in operating their own schools by allowing for school boards to share responsibility of the schools, something that they are not allowed to do now. They have it handed down in a package deal now; that is, as far as the unorganized borough. The state will have to perform it because they will not be organized and able to do it but trying to create responsibility, like getting a child to walk and getting them interested in getting on their own feet. Then on the other extreme will be the first-class city or borough that can apply for the home rule charter. In between we read that the legislature can give a certain amount of home rule, probably set up in a package deal that will be more or less general over the state, that will allow for some participation in home rule in

proportion to how they can share in the expenses of it. I thought I would mention that insofar as our interests in what may have to be unorganized areas for some time to come. We did think of leaving parts of the Territory outside of boroughs and just having boroughs where they could be organized, but we felt that would be a mistake because something may happen in a borough that is unorganized that would cause that borough to come into prominence, let's say overnight so to speak, and having the boundaries set up and some local participation they would be much more able and ready to organize and share their full responsibilities.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I had been interested in this particular section, Mr. Londborg, and happy to have the clarification you provided. But I am still somewhat fascinated by the words "shall provide necessary functions." Now, I assume that when different classifications of boroughs are set up that it will be up to the people themselves as to what kind of borough they wish to be. For instance, if the classification should be first, second, and unorganized, or something of that nature, I assume that the people themselves can choose what kind of borough they want to be. With that background who is to decide what are necessary functions? Haven't we here inducement to an area to remain an unorganized borough and to get the state to provide all the necessary functions?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will try to answer that. We thought that at the state level it would be the policy as it has been in the past to offer certain inducements to them to organize. Now, at the present time in incorporated cities there are certain refunds of taxes in the nature of license taxes, liquor taxes, and other taxes that are a percentage, at least, of which reverts back to the organized area. In the extent that the benefits that the legislature sets up will offset the added cost to the people, and the extent of their desire for home rule will govern how far they go in organizing these boroughs, but it was our thought there would be enough inducement for them to organize and exercise home rule so that as time went on they would gradually all become incorporated boroughs. That would take a great deal of time in looking at our map. The thought was that inducements to organize would be offered on the basis of the granting of home rule powers plus certain other inducements that would make it advantageous to them to be boroughs, as we now have that same program of inducement to organize communities.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: If I may add a little word to that, Mr. White, and the rest of the delegates, at present the cities that want to incorporate have to assume a certain percentage of their school taxes, and it isn't that they are not willing to do it, but they may find by refunds, etc., they are not able to, so therefore, you have no inducement to incorporate, and the very thing that you mention, they remain unincorporated for that very reason. We felt that it could be handled possibly different ways, but I will mention two: one is to have some state agency that would survey the whole thing and say now is the time you have to incorporate; there is no way you can get out of it; you have to organize. I believe the method that Mr. Rivers brought out would be the more desirable, by having skilled men that would study this matter and set it up so that it would come in the form of an inducement so that they can see that they are going to benefit, definitely benefit by organizing, by getting into the picture of local government. If we do it the other way and force it upon the people, I think you are going to have it taken with resentment and probably a lack of good local government. Now, as far as wanting home rule, I think you will find that that is a common interest. I think people, most citizens, most cities, villages, be they ever so small, really want home rule. They like to feel they are governing themselves, and by making it possible to share responsibility, to share in the work of the local government, even though they be not organized, and then as they see the financial picture where they will be able to do it, I think they will take the step. You may have a further question on that.

WHITE: No, I think I shouldn't take up more time. My question was whether including this line, if necessary could it be defined by the legislature or if necessary have some absolute definition used in this context.

PRESIDENT EGAN: Mr. Cross.

CROSS: Mr. President, I might refer to the functions that are now being performed in, we will say, in the unorganized districts. They would be police functions, some of the relief or public welfare functions, a certain amount of education; I might say that those functions considered necessary would not be desirable if there is any other way of getting at it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Does somebody else want to pursue this unorganized territory any further? If they do, I will yield.

LONDBORG: I would, Mr. President, just like to add another minute to this discussion. This thought of having the legislature

set up for local participation, I think is going to pay off for the state and also make it possible that the particular boroughs will organize sooner, get into more participation. Let's just take the police setup as we have it now, the terrific cost of going out and meting out justice in the various outlying areas. If there would be some way, even now, for more local participation, some way that a local community could actually take their people into hand and mete out certain justice as they might see fit; it may save hundreds and thousands of dollars of the taxpayers' money just to save the expense of the marshal traveling around, but as it is now, the city cannot incorporate due to the other burdens thrust on them and, therefore, they can't get the policing power that is given to a city, second class. These are some of the things we are trying to set up in making it possible and also directives to the legislature to accomplish that very thing.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to pursue a left-handed mention that Mr. Doogan made about relative priority of functions. Is it the intent of this article that the functions of government shall be first at the state level, those that the state does not take over would then be available to the borough, and those that the borough does not take over would be then available to the city, and those the city does not take over would then be available to the service areas, or is there a definite line of authority there?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I will try and answer that. If you look at this borough, the idea of it is that it is an unorganized borough, that it is a little state within a state, it might help to clear up some of this. As we know, the state is going to provide that certain basic functions throughout the state are going to be required. When you get into the organized borough you are going to have certain basic requirements for the whole borough required there. The city, in effect, in some sense is actually a combination of service areas within a borough. The borough, of necessity, in an organized borough to provide for its operation would probably have a certain basic tax to provide schools; if necessary, over the whole borough or portion thereof for health district, but when you get into high centers of population, you, of necessity, have many more services required by those people than you do in the lesser settled areas. That would be my thought on this.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I don't think that quite answers the question. I don't believe that we have a definite line of authority coming down. It is more the idea that your cities and your borough and your service areas should take on what they can handle and not be definitely loaded down with services. Was that your idea that it should come right down from the state level within each succeeding order?

HURLEY: What I am trying to find out is just where the city fits in this picture. Does the city decide what services it is going to render within the city regardless of what the borough has decided to render?

ROSSWOG: Certainly.

HURLEY: The borough, then, has nothing to say about the services that the city offers its own residents within its boundaries. Is that true?

ROSSWOG: Yes, the city should remain as much the same as today, or practically the same unless there are some gradual changes in the future. They can delegate powers back and forth but the borough would not tell the city that they had to supply certain services or couldn't supply certain services. That is why the two are set up as having the authority.

HURLEY: In essence, then, you have two local government units?

ROSSWOG: Yes, that is right.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to add a little bit more to that. You might have noticed that in the original draft of our proposal as submitted before the recess we tried to delineate the authority of the city and the borough. After working it over again we ran into some trouble. Here is what we tried to do originally: that the city has control over its internal affairs; that the borough has control over borough-wide affairs, everything including the whole borough, including the city, as well as jurisdiction over problems concerning the city and surrounding areas. Well, we ran into the same question that has plagued the courts for many, many years by trying to interpret constitutions in what are matters of internal concern to a city. It can be worded in various ways, but there is always a question over exactly what is meant. We realize that it is difficult to draw a line of demarcation and that has been one of the reasons why we feel it is so important that we provide for coordination of the two on the level of the governing body.

We, in drafting up this proposal, considered very seriously what the function of cities would be within the borough. We made up a list of questions, and possible alternatives even at one point, including among them the abolition of existing cities and reconstituting them as urban service areas under the borough. However, it was the opinion of the Committee that while that had very definite advantages of completely unified government, that it was too drastic a step to take at one point and to abolish those units altogether. In view of the large investment that they have set out, and in view of the experience of government over the more than 50 years that cities have been in existence in Alaska, since they were the first form of government that we had in Alaska before we even became organized as a Territory; at the same time we visualize the possibility that as the borough becomes a more definite unit of government over the years, which we hope it will, the scope better defined, that all the functions that can best be carried out on the unified basis be transferred over to the borough. There are functions now that are performed by certain cities, like health for instance, which could probably be much better carried on on the larger basis. We have left the way open to a flexibility of functions; we have not tried to say, "Here is the limitation upon one, and here is where the authority of the other one starts." The legislature has the authority to prescribe this boundary where it deems desirable.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Section 13 provides for compacts, as it were, between boroughs and cities as they gain experience, does it not?

V. FISCHER: Yes, it does.

HELLENTHAL: And the legislature could require, if they saw fit, in certain fields joint action, could it not?

V. FISCHER: Yes, the legislature could require, and I might point out that even a city that adopts a home rule charter could be told by the legislature that you shall not perform the following function that is hereby declared to be a borough function.

PRESIDENT EGAN: Are there other questions with relation to the proposal? Mr. Smith.

SMITH: Mr. President, it just occurred to me, in light of the last statement by Mr. Fischer, the legislature could only tell the borough a certain thing if it told all boroughs the same thing, is that not true? They could not point to any particular borough --

V. FISCHER: That is true, within a certain class of borough.

PRESIDENT EGAN: Does any other delegate have a question? Mr. Victor Rivers.

V. RIVERS: It seems to me it would not be amiss to run down just a little bit the background of the city as we find it today. We are all familiar with it and living with it, but briefly I think it might help to clarify the picture if, I for one, from my limited knowledge just touch briefly on what has taken place through the centuries. We go back to the early formation of cities in their beginnings and we find the city grouping together, mutually as a group generally for defense and we find that fringe areas in which they had their farms, and rural areas seeking defense in the compact group or area that was able to defend. We find the Grecian nation as a nation mainly governed by cities. We find them excelling in many things within those cities, such as in sports and arts. Later on we find the Roman Empire, an empire of city-states. The city was the first element of local government other than the tribal government; and we find the Roman Empire with its great legions building an empire over the entire world. We see that empire fall over a period of some 600 years by reason of the fact that they were unable to integrate the area between the city government, which had worked quite successfully, and their empire-building government. They were not able to visualize an intermediate tier of government with the proper authority, so for the reason of their senatorial system and the method by which they governed for their Empire down through the intermediate tiers to the city, I think it is considered the basic reason why the Roman Empire as an empire failed. Then we go up through the feudal system where each king or knight or baron had his own area, generally grouped around a city with a rural area. We grew up through that period to where we had kingdoms and they were fairly strong, and we learned the methods of empire government, generally on a fairly small scale; but, then we transfer that picture to the United States, and we, as a nation, have succeeded largely upon the basis of the fact that we were able to recognize not only the national need at the national level but an intermediate tier of government called "states". We have always had the cities, and from the time of the city-state-national government that we formed we have had a great problem in the intermediate tier of government between cities and the state level. I think you will all agree that the state-national level through all these changing years has worked satisfactorily. Now we have outgrown, apparently, the period of which the city can solve the problems of the local area by itself. In the years of more rapidly increasing government we have a vacuum between the city level and the state level. We have tried in many ways to fill it with different forms of delegations of state

powers and functions to counties, and similar things called parishes and boroughs, etc., which have been generally based upon a delegation of powers from the state to that area, specific powers. Now we find areas ourselves throughout the United States in chaos with that intermediate tier of government, and it lies with us here to be able to visualize a large enough picture and sufficiently visualize the needs of that intermediate tier of government to come up with a broad general framework that will help to solve it. We do not have here now established that intermediate tier as the states have in such a manner that it cannot be developed healthily. They have to not only undo what has been done through a number of years, but they have to reconstitute it in such a way that it will be workable. As our communications and transportation have increased in speed, and space and time have been narrowed down, the needs of this intermediate tier, if they are going to function properly, become more and more apparent. So, with this idea in mind, and with this approach, we in the Committee have thought, and I say we have thought -- we can't answer all the detailed questions -- those things will be worked out as each borough forms and as each borough goes through its experiences, as the membership of their governing bodies face and meet problems they will be worked out. It is my thought, and I think I speak for all of the Committee, we have considered every contingency we can imagine in detail, and have then tried to apply a general over-all framework, and in our problem here of being able to keep up with detailed answers to hypothetical questions, it is something that can only be proven in time and in the experiences of men in the solutions they arrive at. So, I give you this little explanation just as a layer of background by which you can judge what the problem is. We are now dealing with the problem of delegation back down from the empire level, which is the national level which has gone down to the state and then to the city. We are now dealing with that intermediate tier of government between the state and the city, and our visualization has been strong powers of local government at that level. We have the national administration with its presiding officer, the President and the administrative body and its departments. We have the state on the same pattern, the presiding officer, the legislative body and the departments. We have at this present time the city in the same manner with its mayor, council, and administrative departments. In between that tier we have provided for an area of government along a similar pattern, the presiding officer and assembly and the various departments to administer those problems. In a broad general framework here I think we have set up a pattern and it is not based entirely on what we think, but on what we have tried to derive from the experience of others. I think we have set up a pattern here that can be a model and framework for good

government throughout the United States in helping solve some of our problems. I hope this helps you straighten out the thinking in connection with what the problem has been -- it is a mighty big one.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to add just a word or two that has come to mind now concerning the relationship of the city to the borough. I think it is entirely feasible to think of a borough where maybe five members from the city council would join two from the rest of the borough, making an assembly of seven. Such a situation would be in a relatively small borough where the city is probably taking over the larger portion of the area of that borough, or nearly so. However, I think if this board that shall have the authority to reorganize, consolidate, dissolve, or merge, if they use their wisdom they will see to it that a borough that has a large city in it will perhaps not be so large but what the city will really have interests out to the edge of the borough. I think you will find that true in many cases in the states where some cities have grown to where they take over nearly the whole county, and I would like to point out here that if that would be the case in our situation, where a city would grow to where its boundary would be the same as the borough boundary, it would be a matter very simple to either disorganize the city or the borough so you would come under one government instead of having the situation that you would have in some cities in the states where they have grown to take over the whole county. And right within the city you have a building called the city hall, you have a building along side, or they may share the same building, called the county government, city police, county police, all performing and competing as far as the same functions are concerned. We have provided here that that can be taken care of to eliminate such duplication of unnecessary activities. I think a lot of it is going to depend upon the ones who shall be given the task of setting up the original boundaries and also taking recommendations for future boundaries, so that only people with common interests, common economy, transportation problems, etc., shall be encompassed in a borough and the borough may, of necessity, be quite large and it may also, of necessity, be quite small.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. Londborg a question? Mr. Londborg, you could also visualize a situation in a large borough where the population outside the city might exceed that within the city, could you not?

LONDBORG: Definitely so, depending on who would set up the boundary and where.

R. RIVERS: I just wanted to bring out the balance and the emphasis. You can visualize a situation where there might be as many assemblymen from outside the city as inside?

LONDBORG: That is correct.

R. RIVERS: In other words, those things will all be adjusted under some proportion with area representation?

LONDBORG: That is the desire as far as we have set it up.

PRESIDENT EGAN: Are there questions to be asked of the Committee? Does any delegate have a question to ask at this time? Mr. Hurley.

HURLEY: Mr. President, I would move that we recess until 3:30 for the purpose of conferring with the Local Government Committee.

PRESIDENT EGAN: Would that be satisfactory with the Chairman and the Committee? Mr. Rosswog.

ROSSWOG: Yes, Mr. President.

SUNDBORG: Mr. President, Style and Drafting will meet in the ping-pong room.

PRESIDENT EGAN: The Convention will come to order. Are there other announcements to be made before we have this recess? The Chair would like to have each delegate understand now that the Committee on Local Government is going to meet, and they will be available to answer any questions relative to any amendments you might have to offer. You may submit your amendments to them at that time. Mr. Johnson.

JOHNSON: Point of inquiry. Is this rule, or what I have heard announced as a rule, which presupposes the idea that we have to submit an amendment to the Committee and have them cleared with the Committee before they be presented on the floor. Was that actually adopted as a rule or simply a suggestion?

PRESIDENT EGAN: Mr. Johnson, it was adopted as a rule one evening when we considered some of the proposed rules as submitted by the Rules Committee which were not adopted, but that is one that was adopted. However, as you noted last evening, the Committee Chairman seemed to be quite lenient in accepting proposals but it seemed that it does expedite the procedure. Mr. Ralph Rivers.

R. RIVERS: Mr. President, as a member of the Rules Committee, I would like to explain that clearing with the committee does not mean you have to obtain the approval of the committee. You simply present it and discuss it with them. If they like it and choose to make a committee amendment out of it -- so much the better. If they turn you down, you have at least presented it, so you may bring it on the floor yourself.

JOHNSON: That is a different interpretation than the word "clearing" with the Committee.

PRESIDENT EGAN: Mr. Johnson, it does not mean you cannot present your amendment later. Mr. McNealy.

MCNEALY: I would like to have a short meeting of the Ordinance Committee and any members here -- it will be short so it won't interfere with Local Government, but the members here who are particularly interested in the fish trap matter, we would like to have you say a word or two to us.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment Committee has a problem. We still have Committee Proposal No. 14 in the Committee and we have been holding it up for the description by metes and bounds, or whatever you call it, on the districts.

PRESIDENT EGAN: Mr. Hellenthal, can you answer that?

HELLENTHAL: Yes, I conferred this morning with the people in the Mining Department with regard to a preparation of a schedule and they have gotten a little too ambitious. They were trying to make each district stand on its own feet, and as a result they were quite long in the schedule. So, they are revising the schedule so it will be complete in itself and each district will be described but it will refer from one to another for brevity's sake. They tell me it should be ready today or tomorrow.

SWEENEY: Would it be all right to hold back the report until that is received?

PRESIDENT EGAN: Yes, the Chair feels that the report may be held until that is received. If there is nothing else to come before the Convention, unanimous consent is asked that the Convention stand at recess until 3:30. Hearing no objection, it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 1 of Committee Proposal No. 6/a? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "By the Local Government Committee and Delegate Hellenthal: Section 1, page 1, line 7, after 'tax-levying' add 'jurisdictions and otherwise minimize the number of'."

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

ROSSWOG: This amendment has been approved by the Committee, and I would like to ask unanimous consent that this wording be adopted.

PRESIDENT EGAN: Mr. Rosswog asks unanimous consent that the proposed committee amendment be adopted. Is there objection? Will the Chief Clerk please read the proposed committee amendment once more.

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: Is there objection to the adoption of this proposed amendment?

UNIDENTIFIED DELEGATE: Please read the sentence as it would read.

PRESIDENT EGAN: Will the Chief Clerk read the sentence with this proposed amendment included.

CHIEF CLERK: "...and to provide a framework which will accommodate future development and prevent the duplication and overlapping of independent tax-levying jurisdictions and otherwise minimize the number of local government units."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, that might be all right with Style and Drafting to improve it, except I think the word "otherwise" doesn't fit in with the framework of the sentence.

ROSSWOG: I believe it was meant simply to clarify, and it would be satisfactory with the Committee, I'm sure, for Style and Drafting --

R. RIVERS: Could we say "minimize" without the word "otherwise" in there? Because we've already spoken. Mr. President, in that sentence we've spoken of providing a framework, preventing duplication, and overlapping of independent tax-levying jurisdictions, and -- but then, I'll leave it to Style and Drafting.

PRESIDENT EGAN: Mr. White.

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

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

WHITE: Aren't the city and the borough, of necessity, going to be overlapping tax jurisdictions?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, I think we have made provision for that by stating that they each shall have the powers.

WHITE: They each have powers to tax, and they're overlapping units of government, so therefore, aren't they overlapping tax jurisdictions?

ROSSWOG: No, they're not.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, that is the reason for that -- having the same men serve on both the city council and on the other -- is to take care of the fact that they do each have their own taxing power. And, you would, in that way, be able to have something to pull over. But you're doing away with all the other special service districts, each one coming into their own and overlapping.

PRESIDENT EGAN: Is there objection at this time to the unanimous consent request for the adoption of the committee amendment? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 1? If not, are there proposed amendments for Section 2? Mr. Hilscher.

HILSCHER: Mr. President --

PRESIDENT EGAN: There's a committee amendment, Mr. Hilscher. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "On page 1, line 13, strike the word 'only'. On line 14, insert the word 'only' after 'cities'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I 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. Rosswog.

ROSSWOG: The way it originally read it may have meant taxing powers only, and the intended meaning was taxing powers to organized boroughs and cities only.

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

COGHILL: May I ask a question of the Chairman on that?

PRESIDENT EGAN: You may ask a question.

COGHILL: Does that preclude any organized district within an unorganized borough of taxing through the legislature?

ROSSWOG: No, it would not.

PRESIDENT EGAN: Is there objection to the request for the adoption of the proposed amendment? If there is no objection, the amendment is ordered adopted. Are there other amendments to Section 2? Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 2, line 12, change 'boroughs' to 'province', and this change will be made throughout the article."

HELLENTHAL: Point of information, Mr. President. There are several amendments along this line on the desk. Some wish to change the name to "counties", some to "province", and other variations. I suggest, for the purposes of uniformity, of expeditiousness, so that we can get to the meat of the thing and then take the embellishments later, that we pass all matters relating to name until we're all through with the article, and then take it up then. And, Mr. President, I move and ask unanimous consent that any amendments dealing with changing the name from "borough", or retaining it, or to any other name, be held up until after we have finished amending the sections of the article.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Unanimous consent has been asked and it has been moved and seconded that we hold the matter of names until after we have adopted all other amendments. Is there any objection? Hearing no objection then, it is so ordered and the amendment will be held until that time. Mr. Marston.

MARSTON: It will be too late. It will be cold at that time.

PRESIDENT EGAN: Are there other amendments to Section 2? If not, are there amendments to be offered to Section 3? Mr. Ralph Rivers.

R. RIVERS: I would like to ask a question of the Chairman of the Committee.

PRESIDENT EGAN: If there is no objection, Mr. Ralph Rivers.

R. RIVERS: I'm wondering about the establishing of these boroughs according to such standards as the legislature may prescribe. I should think it would be according to such "patterns" or other words other than "standards". So I'd like to have that held over for a little further thought on that one point.

PRESIDENT EGAN: Are there amendments to be proposed for Section 3? If not, are there amendments for Section 4? If there are no amendments to Section 4, are there amendments to Section 5? Mr. Rosswog.

ROSSWOG: Mr. Chairman, at our meeting today we were not able to go over the amendments to Section 5. We have a little change in wording, and it's being studied, and at our next recess we will take them up. I would like to ask, and ask unanimous consent that Section 5 be held up, and we go on to other sections.

PRESIDENT EGAN: Mr. Rosswog asks unanimous consent that Section 5 be held over until after the next recess. Are there amendments to Section 6?

CHIEF CLERK: Yes.

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

CHIEF CLERK: "Committee amendment to Section 6. Page 3, line 1, after the word 'law' insert 'or charter'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, this is a committee amendment, and has been approved by the Committee. I would like to move and ask unanimous consent that this change be made. This is simply to make the provisions by law or charter.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent for the adoption of the proposed committee amendment. Mr. Johnson.

JOHNSON: Mr. President, may I ask a question relative to this amendment?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: Mr. Rosswog, is it actually necessary to include the words "or charter"? Certainly the charter would come from the law, or be created a creature of the law. So it would be included in the word "law" I should think.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Johnson, I do not feel that it is exactly necessary, but it was felt it might clarify it a little more there.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment? If not, the amendment is ordered adopted. Are there other amendments to Section 6? Are there amendments for Section 7? Are there amendments for Section 8? Are there amendments for Section 9? Mr. Robertson.

ROBERTSON: May I ask the Chairman a question about Section 8?

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

ROBERTSON: Mr. Rosswog, wouldn't "provisions" be a better word than "standards" in line 16?

ROSSWOG: What was the word, please, Mr. Robertson?

PRESIDENT EGAN: Wouldn't "provisions" be better than "standards" on line 16, page 3?

ROSSWOG: Well, I don't think it would make too much difference in that, Mr. Robertson, and we would be willing to leave it to Style and Drafting, if they wish to change it.

HELLENTHAL: Did Mr. Robertson ask unanimous consent?

ROBERTSON: No, I just asked a question.

PRESIDENT EGAN: Are there amendments to be proposed for Section 9? Mr. Coghill.

COGHILL: Mr. President, one subject that I overlooked. May I ask Mr. Rosswog a question?

PRESIDENT EGAN: If there's no objection, Mr. Coghill.

COGHILL: Mr. Rosswog, in Section 9, why are the cities of first class pointed out in charters in amending and adopting home rule with priority over cities of the second class? Why can't cities of the second class have the same prerogative?

ROSSWOG: I would like to refer you to Mr. Fischer.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: On this matter the Committee originally just had "cities". The feeling was that our classification laws probably need a substantial amount of overhauling. Since we have some cities of the first class that have a population of something like 55 people -- some even less than 40 people -- it was felt that home rule power should not be automatically granted to all cities; that the legislature should be able to prescribe the standards by which a city may elevate itself, or may be elevated into class 1 status. Now, the same thing was true for the boroughs of the first class. We didn't want to give a blanket home rule provision in there, but to leave some discretion and flexibility on this particular subject. And we don't necessarily mean that only cities of the first class existing now can adopt home rule charters. And, as you also will note, in the following section, the legislature may extend home rule to other classes of boroughs and cities.

COGHILL: Well, my question was, is that cities of the first class now, on Territorial status, or when you revise your code?

FISCHER: Of now, unless the legislature revises, and we have in mind that there probably should be some revision.

PRESIDENT EGAN: Are there amendments to Section 10? To Section 11? Are there amendments to be proposed for Section 12?

CHIEF CLERK: I have a committee amendment.

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

CHIEF CLERK: "Page 4, line 22, after the word 'proposed' insert 'local government'."

ROSSWOG: Mr. Chairman, this is also a committee proposal, and has the agreement of the Committee. I would move and ask unanimous consent that these words be inserted.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed insertion.

(The Chief Clerk read the proposed insertion again.)

PRESIDENT EGAN: Unanimous consent is asked that the proposed committee amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other amendments for Section 12? Mr. Robertson.

ROBERTSON: May I ask a question?

PRESIDENT EGAN: You may ask your question.

ROBERTSON: Is this local boundary commission supposed to come within the executive department of the government, or is it a separate commission?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, we felt that it could be a separate commission, but it would be under the executive department.

PRESIDENT EGAN: Are there amendments for Section 12? Mr. Hellenthal.

HELLENTHAL: I reserve the right to discuss with the Committee an amendment that would place this under the executive department.

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

ROSSWOG: Yes, the Committee would be glad to discuss that with you.

PRESIDENT EGAN: Are there amendments for Section 13?

CHIEF CLERK: I have a committee amendment.

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

CHIEF CLERK: This is also Local Government Committee and Mr. Hurley. "Page 5, line 11, strike the words 'for a' and substitute 'comma including'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, this change has the approval of the Committee, and I would like to move and ask unanimous consent that it be adopted. The wording before held it to "a cooperative and joint administration", and there is a possibility there would be other types of cooperation that should be included, so "included" would change it to all of them.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Kilcher.

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

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

KILCHER: Mr. Rosswog, in Section 12, I see a commission is established by the legislature as the case is now, and it will act on its own motion or own petition. Could you conceive that a petition -- it would most likely come from some citizens from a borough? Don't you think that possibly the decision of the board should be brought to a referendum in that district instead of local self-government?

ROSSWOG: Mr. Kilcher, we have left that open if they should require a referendum. We felt that they should be able to petition, or the commission could start its own study on a change, but it was left open as to how they should require a referendum.

PRESIDENT EGAN: Are there other amendments to Section 12? Mr. Hinckel.

HINCKEL: May I ask a question?

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

HINCKEL: I thought I understood this Section 13, but after changing this word in line 11 -- I'm not sure just what they mean by the word "cooperative".

PRESIDENT EGAN: Will someone on the Committee answer that question, what is meant by "cooperative" in Section 13. Mr. Fischer.

V. FISCHER: Mr. President, in rereading the language I see there is a redundancy there. I might mention that it has been thought of by the Committee that since a similar intergovernmental cooperation provision is contained in the executive article, as we had in second reading, that probably the two would be combined. I realize there is some question about the wording there, but again we thought we'd just leave it over. The intent, generally, is clear to leave the way open for agreements of various types.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Meaning cooperation between various government agencies or other local government groups? You expressed the intent, that's what I want to know.

V. FISCHER: Yes, the intent is to provide for cooperation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I ask a question with reference to Section 13?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: The last sentence says: "That subject to such limitations as may be established by law or charter, the cities may transfer to the borough in which it is located any of its functions or powers." Now in this I would like to ask the Chairman what sort of functions or powers did the Committee have in mind in that respect?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, we felt there should be a transfer of powers between the city and the borough; and also a return of those powers. There are services of different kinds that might be worked together, and that the way should be open for that.

PRESIDENT EGAN: Does that answer your question, Mr. Johnson?

JOHNSON: Well, I still don't understand just exactly what they had in mind. Do you mean police power, or health measures, or such things as the fire department, or --

V. FISCHER: Yes. Our thought was to leave the way open, for instance, to the transfer of health functions, sanitation inspection, transfer of the fire department to a consolidated fire department covering your whole large urban, and possibly, rural area; possibly road maintenance, both within and outside the city, could be put on a single level. Those are the types of services that we had in mind.

JOHNSON: Well, for instance, using Fairbanks as an example. We have a large urban area that is not at present, or at least, certainly not included within the services of Fairbanks City Fire Department. Would it be possible, under this, or is it your intent, under this, to extend the services of the Fairbanks Fire Department beyond the city limits, and to include all of the urban areas?

V. FISCHER: Our intent was that the way be left open, using your example, to establish a, say fire protection district covering the whole greater Fairbanks area; and that the city could transfer, on one basis or another, its fire fighting equipment to the district; and then the people of the whole

district would then pay a fee for the fire protection service.

JOHNSON: How would this fee be handled? On taxation basis, or so much per call, or what?

V. FISCHER: That would be completely left open -- up to whatever organization was felt most desirable. It could be through a direct tax levy, through an assessment, through charge per call, or something.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, Mr. Fischer, this has to do with agreements between local governments. This means that the terms would depend upon what the city agreed to and what the surrounding area agreed to.

V. FISCHER: Yes, sir. This does not provide for compulsory --

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Fischer, doesn't this phrase in Section 13 pretty well answer a lot of the questions regarding large school districts that would have a city within it? This would take care of that proposition, would it not?

V. FISCHER: Yes.

PRESIDENT EGAN: Are there amendments for Section 13? For Section 14? Mr. Hellenthal.

HELLENTHAL: I move that in line 18 the word "shall" be changed to "may".

PRESIDENT EGAN: Mr. Hellenthal moves that the word "shall" on line 18 in Section 14, be changed to "may".

McLAUGHLIN: Point of order.

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

McLAUGHLIN: Has the Committee been consulted on this matter?

HELLENTHAL: That should be a point of information, I would think, rather than a point of order -- because he doesn't know the answer. (Laughter)

PRESIDENT EGAN: A point of information, Mr. McLaughlin. Mr. Rosswog.

ROSSWOG: The Committee was consulted on that, and we wish to stay with the wording in our proposal.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I don't know whether that was seconded or not.

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Hellenthal moves, and Mr. Knight seconds the motion.

HELLENTHAL: I hate to be "the skunk at the lawn party", but, as a matter of principle, I feel that, unless a grave, grave need exists, that no agencies, departments, commissions, or otherwise, should be set up in the constitution. Consistency dictates this. I listened avidly and with great interest to the arguments in the presentation of the executive article, and I was completely won over by those arguments. And the logic that compelled me to vote in upholding that committee proposal compels me to make this amendment. I don't like to. Now, I'm sure that the legislature, in its wisdom, will provide for this agency, and I see nothing wrong with it. I think it's very desirable. But, the word "shall" I think is poor constitutional language, and inconsistent with the policies that we have agreed upon heretofore in this constitution. Now, you say, "Well, there are some boards that are created, and are made mandatory." That is true. The board of apportionment must be a mandatory constitutional board; the board for fixing boundaries, that was set up in this article in Section 12, I think should be a constitutional agency of the executive department, just like this Section 14 board would be; but unless there is some very, very compelling reason given for including such an agency as proposed in Section 14 in the constitution, I think we're violating the principles and policies we've already adopted here.

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

ROSSWOG: Mr. Chairman, I do not wish to argue with Mr. Hellenthal, but I'd like to give just a little of the Committee's thinking on this; which was that we are leaving the provisions of this article quite flexible, and there will have to be quite a lot of work done on it. We would like to see, particularly, that there should be some department in the executive branch that would take care of local government matters, in advice, and help in setting them up, etc.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, it occurs to me that with some 13 references to what the law or the legislature is going to do in this article, that the first state legislature, upon reading it, will hasten to provide an agency to take care of the problem. So, I don't think it makes much difference whether it says "shall" or "may".

PRESIDENT EGAN: Mr. Gray.

GRAY: As I read Section 14, "Provision shall be made by law for an agency in the executive branch..." Could they not assign the secretary of state as the agency? Does it have to be a separate agency. They could assign it to the secretary of state, and if the amount of work demanded sufficient time and material, they could set up a subagency, or even a section of the secretary of state for that. It's immaterial to me. I think the word "shall" is perfectly all right.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by Mr. Hellenthal, 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. The Chair would like to state at this time that there will be pictures of the Juneau fire on TV at 7:00 p.m.

UNIDENTIFIED DELEGATE: What channel?

PRESIDENT EGAN: Channel 2, as the Chair understands it. Are there amendments to Section 14? Mr. Robertson.

ROBERTSON: Mr. President, I have a question. In view of my question this morning about what the charter drafting agencies meant, and your answer, does the Committee have any objection to inserting the word "their" before the word "charter"? To insert the word "their" in line 21, before the word "charter"? Do you have any objection to doing that?

PRESIDENT EGAN: Do you ask for the adoption of that amendment, Mr. Robertson?

ROBERTSON: What I wanted to find out -- I ask unanimous consent to do that.

R. RIVERS: I object, until I hear more of it.

PRESIDENT EGAN: Mr. Robertson asks unanimous consent for the adoption of the amendment. Objection is heard. Do you so move, Mr. Robertson?

ROBERTSON: I so move.

PRESIDENT EGAN: Mr. Robertson so moves.

HELLENTHAL: I'll second it.

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

R. RIVERS: I did it only because I wanted to hear the explanation.

PRESIDENT EGAN: Mr. Rosswog, you care to --

ROSSWOG: No, I just wanted to say, at the moment I did not see any objection, but --

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Line 21, before the word "charter" -- I asked Mr. Rosswog this morning what the term "charter drafting agencies" meant, and as I understood his answer, he said it referred to the charter drafting agencies of the local government. So I think we ought to add "their" in there, so it could be distinguished from something else.

R. RIVERS: I understood that the charter drafting service would probably come from the state, and that the local governments that are stepping up the ladder to complete the local -- or you'd call it home rule -- would be getting their charter drafting assistance from a state agency that assists local governments in solving their problems. And, it could very well be this agency, or subdivision of this agency, which assists the local governments. Now, I only wanted to be clear. I'd like to hear from Mr. Fischer on whether these charter drafting deals are within the local government, or whether that assistance is going to be obtained from the state, before I know how to vote on your amendment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to state that it was the intent of the Committee that these charter drafting agencies be within the local government units; and, therefore, "their" expresses fully the Committee's intent.

R. RIVERS: I withdraw my objection.

PRESIDENT EGAN: Mr. Ralph Rivers withdraws his objection. Mr. Robertson.

ROBERTSON: I renew my motion for unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Is there objection? If there's no objection, the proposed amendment is ordered adopted. Are there other amendments? Mr. Riley.

RILEY: Mr. Gray's suggestion that an agency need not necessarily be created to accomplish the purpose of Section 14, which suggestion I believe the Committee agreed, would suggest to me that the words "which shall" on line 20 might better be changed to "to". "To render assistance", and perhaps "to collect and publish information". Is there any objection to inclusion of that? Strike "which shall" on line 20, substitute the word "to"; and to precede the "collect" on line 22 with the word "to". If not, I'll ask unanimous consent that those changes be made.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Does the Chief Clerk have that? Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Line 20, delete 'which shall', and insert the word 'to'; and on line 22, insert the word 'to' before 'collect'."

PRESIDENT EGAN: That is correct. Are there any questions relative to this? Is there objection to the unanimous consent request? Hearing no objection, the amendment is ordered adopted. Are there other amendments to Section 14? If not, are there amendments to Section 15? If there are no amendments to Section 15 -- Mr. Hurley.

HURLEY: Mr. President, at this time I would like to ask a question. May I do so?

PRESIDENT EGAN: If there is no objection.

HURLEY: One of general intent. Is my idea correct that no organized borough will become effectuated without the voice of the people within the area?

PRESIDENT EGAN: Would you care to comment on that, Mr. Fischer?

V. FISCHER: The answer, I think, would be "no". The borough, as visualized here, is even more than just a unit of local government. It is also a unit for carrying out what otherwise are carried out as state functions; and when a certain area reaches a position where it can support certain services and act in its own behalf, it should take on the burden of its own

government. As was explained earlier today, we don't actually visualize that the state will force boroughs to organize, since we feel that they should be set up on such a basis that there will be enough inducement for each one to organize. However, just as you have in school districts, the legislature has granted power to, I think, the board of education to incorporate school districts when they reach a certain minimum population so that they would assume their own load.

PRESIDENT EGAN: Does that answer your question, Mr. Hurley.

HURLEY: Yes.

PRESIDENT EGAN: Are there other questions at this time, or are there other amendments to Section 15? Mr. Hinckel.

HINCKEL: I'd like to ask a question, if I may.

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

HINCKEL: In line with Mr. Hurley's question, I am again now confused, because I thought that I understood, but now I'm afraid that I do not, after Mr. Fischer's answer. If he had said that the answer was that the people would have the right to decide, why then I would have felt that I knew what was going on. My interpretation was that, up until such time as the borough adopted a charter, that they would operate under rules that would be set up by the legislature, and at the time that they decided to organize, why they would then adopt a charter, and that the people would, at that time, accept the charter by some sort of a referendum or something like that. Am I completely confused now, or --

V. FISCHER: No. I might not have made my answer completely clear. The legislature would have the authority to establish an organized borough. When it comes to adopting a charter, that is something that is up to the people. A borough does not have to adopt a home rule charter.

HINCKEL: Up until the time they do, though, they will operate under some sort of regulations that are set up by the state?

V. FISCHER: Under the general law of the state.

HINCKEL: But you would call that an organized borough?

V. FISCHER: Yes, and I might say that the legislature may very well see fit to provide that before a borough could be organized, that the people do approve it by referendum. The question

I was answering was whether we were definitely setting it up on a voluntary basis. But we're not. We're leaving it to the legislature whether a referendum will or will not be required.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I yield to Mr. Johnson.

JOHNSON: I just wanted to follow that out a little bit, and ask Mr. Fischer why it was that the referendum idea was used only in the charter portion of the act -- the proposed charter and borough?

V. FISCHER: Well, as I tried to explain, there is some question as to whether or not the state would want to force the organization of a borough. There are reasons that the state may have for organizing a borough. However, when it comes to adoption of a charter, the people, in other words, set up their own form of local government at that time. I mean, they prescribe the rules, etc. That is something that is not of direct state concern, whereas, the organization of the borough, in the first place, would be, and so that is left up completely to the people, by referendum.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this was on a point of clarification. Mr. Fischer said that, until a charter was granted, that they would operate under the laws or regulations promulgated by the legislature. That was the general intent, I believe, and I'd like to ask you, Mr. Fischer, if the legislature may not deal with an organized borough, and delegate taxing powers, and other powers, to an organized borough or city which has not applied for a charter?

V. FISCHER: Yes. Certainly.

R. RIVERS: Well, that's the point I wanted to make clear.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If someone else wants to speak, I've talked too much.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I'd like to ask a question. Did I understand Mr. Fischer, that the proposition of whether an area should organize itself into a borough is put before the people. Is that right? Or whether they vote "yes" or "no"?

V. FISCHER: It may or may not be, as the legislature sees fit.

METCALF: In case it should be -- legislature should see fit to let it out on referendum basis, I wonder if they would know how many representatives the rural areas will have on the assembly, and how many representatives the cities will have on the assembly?

V. FISCHER: Well, I'm sure that the organization of boroughs would be prescribed by general law before they start organizing the boroughs. They would have to have the system prescribed previously, so the people would know what the borough would be.

METCALF: Well, I'm wondering, again, supposing a borough should get into a tight fix, or should buy something it wouldn't like? Is there a way to appeal to get out of the fix?

V. FISCHER: That again is left up to the legislature.

PRESIDENT EGAN: Mr. Kilcher has been attempting to get the floor. Mr. Kilcher.

KILCHER: Mr. Fischer, if I may ask you a question, this charter which the people of an unorganized borough may ask to have applied to them, will they set up the charter themselves, with due assistance, legal or common assistance?

V. FISCHER: Yes.

KILCHER: Are there any standards set for that charter? Could you envisage these charters to change greatly from borough to borough, and yet be acceptable to the legislature?

V. FISCHER: The home rule charter could be quite different from borough to borough. I think that, for instance, the form of their administration may differ. Some may want a borough manager -- like a city manager form of government. Others may want to have the equivalent of a mayor as the chief executive. So, there could be various differences.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Fischer, when I think of local self-government, I do not think of it mainly in terms of the executive, I think of it largely in terms of legislative and policing powers, too. In other words, two local self-governments. Now, do you assume that the state executive government and the legislature will be willing or reluctant to delegate their powers to boroughs, or do the boroughs have certain demands that they can make?

Constitutional demands? I would like to see something in the constitution that they may ask -- not be given. In other words, the Section 15 creates in my mind, and some others, that this borough -- this unorganized borough is also a well-domesticated borough. You said a while ago that you should be willing to take the burden. I begin to see now why the word "borough" may be a very good one. Now, you talked about inducements a while ago, inducements dangled in front of the borough. I'm not worried about what inducements -- how I might be induced of doing a thing. I would like to know what rights the borough might have.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I can see why you're putting your question in the way you do, since you're a coauthor of an amendment to change the name of this unit; but to answer your question, no right that the people within the borough would have would be beyond the reach of the legislature by general law. The legislature could deny the exercise of any right just as they can deny today within cities or any place else. However, unless the legislature denies a specific right, it will belong to the people within the borough.

KILCHER: Could you admit us more self-government, not in the administrative sense, but in terms of participation, in form of referendum, etc? To give you an example, Mr. Fischer, I'm living in a PUD, and dissatisfaction has been generally expressed with the Territorial PUD Act in my area; and some of the people down there, during the Christmas recess, had voiced the fear that the borough may be some sort of a super PUD with ramifications, more or less, but inasmuch as they are dissatisfied with the lack of provision in the PUD, there is referendum. The PUD is run, as you say, on a manager basis, on the board basis where the people have very little to do during the year -- practically nothing to say, except to choose their management.

V. FISCHER: May I answer your question?

KILCHER: Yes.

V. FISCHER: That is where the adoption of a charter comes in. The people of the borough will have the say in whether they will require a referendum for this and that, or whether a referendum will not be required. When they adopt a charter, they will get together, just as we're doing here, and write the constitution or charter for that borough. And they can put in referendum or they can leave them out. They can provide for initiative, recall, anything they want.

KILCHER: Thank you.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Fischer, a little while back, you said there might be very good reasons why the state would want a borough to organize. Could you give us some of the reasons?

V. FISCHER: The general function of conducting elections, for example, is a state function. Where local governments are organized, the local government units carry out that function. Recording is generally considered a state function, supervised by the state. Where local governments are organized, they generally carry on recording functions. Otherwise, the state has to carry on those functions.

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

RECESS

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

V. FISCHER: It was just pointed out to me that I apparently made an error in the statement I made before, and that was in saying that the board of education can force school districts to incorporate. They don't, apparently, force them. They just go to a school district when it reaches a certain size -- or they have authority to go to them and say, "We will withdraw high school services from your area unless you form a district." And that is pretty much the way the state can operate if it wants to establish these boroughs.

McNEES: Mr. President, Mr. Fischer's answer to Mr. Kilcher's question, the original question, raised a question in my mind. Will the unorganized borough have a charter?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: No.

McNEES: All right. Thank you.

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

EMBERG: I'd like to ask a question of the Committee in reference to Section 7.

PRESIDENT EGAN: Section 7? Mr. Emberg, you may ask your question.

EMBERG: I haven't any quarrel with the intent of this provision, I understand it fairly well, but I wonder if the language, particularly in reference to the use of the word "maximum", will accomplish what the Committee has in mind? If the legislature provides for the performance of the necessary functions in

unorganized boroughs and the rest of that would be interpreted to mean that they would set a maximum for the local participation in, for instance, the police force, the maximum participation would still have to be 99 per cent. I mean, the flexibility, I don't think, is provided by the language.

PRESIDENT EGAN: Could the Committee answer that question? Mr. Londborg.

LONDBORG: Mr. President, I had a suggestion that might clear it up. Now, I hadn't had a chance to talk to the Committee about it. We may want to do that at a recess, but the thought was that the maximum of local participation responsibility possible in each borough. And it might be well to even put that in. That is the intent. Would that help at all, Mr. Emborg?

EMBERG: Well, it would clear up my objection. I was just wondering what interpretation the legislature will put upon that directive to set the maximum.

LONDBORG: I have been thinking about that myself, and we'll give that consideration when we have a chance for a recess.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. Londborg, was it the intention that the legislature would set a maximum, or wasn't it simply the intent of the Committee that in providing for these functions that the legislature would try to provide for the greatest possible measure of local participation?

LONDBORG: I believe your latter is the correct intent of the Committee, that not to set a maximum, but to allow for all that they are able to assume.

PRESIDENT EGAN: Are there any other questions to be asked of the Committee at this time? If not, Mr. Rosswog, what is your desire with relation to a recess?

ROSSWOG: Mr. Chairman, I would like to ask for a 15-minute recess.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Your Committee on Administration would like to meet at that time for a short meeting with the President of the Convention attending upstairs in the committee room.

PRESIDENT EGAN: The Committee on Administration will meet immediately upon recess. Mr. Riley.

RILEY: The Rules Committee will meet immediately upon recess in the ping pong room.

PRESIDENT EGAN: The Rules Committee will meet immediately upon recess in the ping pong room. Are there other committee announcements? The Committee on Local Government will be meeting to hear any of the delegates at the rear of the gallery immediately upon recess. The Convention is at recess.

RECESS

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

COGHILL: Mr. President, I move that the Convention stand adjourned until 9:00 o'clock tomorrow morning, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: May I just make a statement? I won't object.

COGHILL: With standing committee announcements.

ROSSWOG: The Committee on Local Government is having the Section 5 mimeographed, so I think it would be a good idea for us to recess and come back tomorrow morning. Everyone will be rested and it will give everyone a chance to think this over.

PRESIDENT EGAN: Are there committee announcements pending the motion to adjourn? Mr. Riley.

RILEY: I have a very brief committee report on rules, which, if adopted now, might speed the operation in the morning. The Rules Committee, considering this matter of pending amendments as to the redesignation of "borough", submits this temporary proposed rule: "Before any amendment as to the name of the local government unit designated as 'borough' in Committee Proposal No. 6/a shall be in order, all names which are to be considered will be submitted to the Chief Clerk and read, that the proponent of each name be allowed not more than three minutes to speak in favor of his suggestion, that the Local Government Committee be given five minutes to defend use of the term 'borough', that the roll of delegates be called with each member to answer with his choice of all the names proposed including 'borough', that successive run-off roll calls be taken, dropping one name each time, until the Convention's first choice is determined." We submit that, Mr. President, in line with our experience on 20, 21, 19, etc., and I ask unanimous consent for its adoption.

PRESIDENT EGAN: You have heard the unanimous consent request by Mr. Riley. Does that mean, Mr. Riley, that any delegate can speak for not more than three minutes? On each word, if he so chooses?

RILEY: Any advocate of a particular name may do so.

PRESIDENT EGAN: How about the other delegates?

RILEY: That wasn't covered.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, you don't mean by that that after one name is dropped, they can start all over again and speak three minutes on another name of their choosing?

RILEY: One time around.

PRESIDENT EGAN: You've heard the unanimous consent request of the Chairman of the Rules Committee. Is there objection? Mr. Kilcher.

KILCHER: One question, Mr. President. Mr. Riley, what about the coauthors? Can they speak their three minutes? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

RILEY: I personally would concede it. The Committee didn't consider it.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Does this mean that we can start voting on 21 and then go down? (Laughter)

PRESIDENT EGAN: The Convention will come to order. Is there objection to Mr. Riley's unanimous consent request? Hearing no objection, the proposed rule is ordered adopted. Are there committee announcements to be made at this time? Mr. Sundborg.

SUNDBORG: Mr. President, I'd like to report that the Style and Drafting Committee will have all of its subcommittees working this evening during the time that the Convention is not in session here on the floor; and those subcommittee meetings will be held in Fairbanks at various places. Since they are meeting in small groups, I don't think it's necessary to announce where, since it wouldn't be practical to have spectators anyway.

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

ROSSWOG: Mr. Chairman, the Local Government Committee will meet on arrival here in the morning, and be at the gallery.

PRESIDENT EGAN: Local Government will meet upon arrival here in the morning in the gallery. Are there other announcements? The Chair wishes everyone well this evening. If there is nothing else to come before the Convention, unanimous consent is asked that the Convention stand adjourned until 9:00 a.m. tomorrow. The Convention stands adjourned.

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 my 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 state-wide 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 somewhere 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, Lomborg, 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 co-relation 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 6 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. McNees, were you attempting to get the floor?

MCNEES: 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?

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 could 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.

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, McNees, 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. Hellenenthal.

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

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. Hellenenthal.

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

SUNDBORG: Mr. Hellenenthal, 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 Eaton 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 3. 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: 3 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 or 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 9:00 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.

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. Hellenenthal, 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 old-fashioned 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?

MCCUTCHEON: 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, Lomborg, 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 broad--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

EXTRACT

Proceedings of the Alaska Constitutional Convention

January 30, 1963

Portion relating to Committee Proposal

6a adopted as Article X of the proposed

Constitution of the State of Alaska

This portion has not been
proofread and has not been
given final pagination.

Alaska Legislative Council

before us Committee Proposal No. 10, the report of the Style and Drafting Committee on the Proposal relating to Local Government. Mr. Peratovich, would you take the Chair at this time.

FIRST VICE PRESIDENT: We have the Committee Report on No. 10 before us. Would the Chief Clerk please read it?

(The Chief Clerk read the report, dated January 30, 1956.)

FIRST VICE PRESIDENT: Does the Chairman of the Style and Drafting Committee have a statement?

SUNDBORG: This Committee redraft was prepared initially by a subcommittee consisting of Mr. McLaughlin, Mrs. Nordale, and Mr. Johnson. We have asked Mr. McLaughlin to explain it to you and to answer any questions by the delegates.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Point of information. Mr. President. I ask that a Committee of three or five with plenary powers be appointed to look into the matter of arranging for a present for the President of the Convention.

FIRST VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: I believe the suggestion is a very good one and I believe we should authorize the Administration Committee to take care of it.

FIRST VICE PRESIDENT: You would have to do that in the form of a motion.

(The Convention unanimously agreed that further action in regard to the matter just preceding be not included in the record.)

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: Mr. McLaughlin was about to seek recognition, Mr. President.

McLAUGHLIN: Mr. President, I would like to -- if the members of the Convention would pick up their copies, I would like to make certain insertions which will expedite this proceeding and I will explain them as I go along. First, I request that at the end of Section 6, bottom of page 2, that you insert, subject to your objections later, the following words: "It may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough". So that you have an additional sentence now to Section 6 which reads, "It

may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough." I request, additionally, that on page 3, line 3, the first word "borough", that one "r" be stricken. I request that on line 5 of page 3, after the word "classified", a comma be inserted and the word "reclassified comma", so that the line will read, "They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law." On page 5, I request on line 1, that the words "At the time a borough is organized", be stricken. Then, on line 2, the words "performing local functions" be stricken. Then, on line 2, capitalize the first letter of "special", we're starting a new sentence, and substitute for the stricken words "performing local functions", "existing at the time a borough is organized", so that section now reads, "Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law." And on page 1, Section 3, line 12, at the end of line 12, after "economy comma", add the word "population comma". Mr. Chairman, prior to the asking of questions on the sections, I desire to point out what are substantive changes, whence they came, and what may not be substantive changes but might be subject to that interpretation. What may be, although the Committee says no, a substantive change, are the words we have just added to Section 6 at the bottom of page 2. Those may be: the Committee says no. The reason Style and Drafting presents them is in order to expedite the discussion, and the debate if there should be any. That is the sentence which I have just added, at the end of Section 6 on page 2. There is a substantive change on page 4, commencing on line 5. We have inserted a sentence which is a substantive change: "The change shall become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house." I think the necessity for the change is patent. It arose on another matter. It became necessary, since we may have year-long sessions, to make the proposed changes effective some time possibly before the termination of the session. So we have substituted, with the consent of the Local Government Committee, those words. Section 15 -- I shall read you the original Section 15 from the enrolled copy so you may determine whether or not it is a substantive change. The original language in Section 15 as it was enrolled reads, "The Legislature shall provide for the integration, consistent with the provisions of this article, of special districts performing local government functions with the government of a borough at the time a borough is organized." The credit for the punctuation, Mr. Chairman, although never mentioned by or overlooked by the Chairman of Style and Drafting, and the work that is done on these, is attributable to those people in the boiler room, Mrs. Betty Jean Miles, Carolyn Oakley, Louise Gooch, Charlotte Taylor, Bernice Black, Sherry Hoopes, Doris Ann Bartlett, and Willou Bickel. They haven't received recognition

for the work they have done. All of the changes in here which may have been substantive and the style changes have been consented to by the Local Government Committee in full.

FIRST VICE PRESIDENT: Mr. Johnson.

JOHNSON: I should like to point out, I think Mr. McLaughlin meant to do it but he hasn't, that as a member of the Style and Drafting Committee, while I signed the report, I did not concur in the changes in Section 15, on the grounds that they were substantive.

FIRST VICE PRESIDENT: Mr. McLaughlin.

McLAUGHLIN: Mr. Johnson's statement is correct. As a matter of fact, Style and Drafting did not author any substantive changes insofar as is known, but they put them in there, approved them only as to style, not as to substance. Do you desire that we go down section by section? Do you want me to call the sections?

FIRST VICE PRESIDENT: You may proceed right along, Mr. McLaughlin.

McLAUGHLIN: Are there any questions on Section 1? Section 2? Section 3? Section 4? Section 5? Section 6? Section 7? Section 8? Section 9? Section 10? Section 11? Section 12? Section 13?

HERMANN: Section 12, I'd like to ask a question.

FIRST VICE PRESIDENT: You may ask the question, Mrs. Hermann.

HERMANN: Line 9, the last part of the word at the end of the sentence, does that have to appear in the Constitution with a hyphen after the double "m"? If it does, I want to object. I move that the hyphen appear after the first "m".

McLAUGHLIN: And where do you desire the hyphen, Mrs. ...

HERMANN: After the first "m" instead of the second.

McLAUGHLIN: After what, Mrs. Hermann?

HERMANN: After the first "m" in the word "commission".

FIRST VICE PRESIDENT: The second word in the last sentence in that paragraph.

McLAUGHLIN: Line 9, the hyphen after the "c-o-m-m"?

HERMAN: That is what I am objecting to; after the "c-o-m" I want it.

McLAUGHLIN: I am sure that by unanimous consent, Mr. Chairman, that the Convention will consent to the deletion of the hyphen. Something tells me that this is going to be reprinted and that "commission" will be made whole again.

FIRST VICE PRESIDENT: Hearing no objections, the request will be granted.

BUCKALEW: Mr. President, I don't think Mr. McLaughlin has the point yet, have you, George?

McLAUGHLIN: I don't know what the point is.

HERMANN: The point is that the syllable should be c-o-m and you don't put a hyphen in the middle of a syllable; you put it after a syllable.

McLAUGHLIN: Mr. President, I am sure the Convention consents to inserting the hyphen, moving the last "m" down from line 9 to line 10, and inserting the hyphen after the first "m".

TAYLOR: May I rise to a point of information? Now, in the printed copy of this, if "commission" happened to be in the middle of the line, would they leave the hyphen in there?

FIRST VICE PRESIDENT: Mr. McLaughlin, would you care to answer this question?

McLAUGHLIN: I am sure that the Committee on Style and ~~Drafting~~ will pick up such a notable error at the time we review the whole Constitution.

UNIDENTIFIED DELEGATE: The Committee on Local Government has no objection. (laughter)

FIRST VICE PRESIDENT: Are there any other questions? You may proceed.

McLAUGHLIN: Section 14?

FIRST VICE PRESIDENT: Mr. Smith.

SMITH: In reading the first sentence in Section 14, just previously here, it says, "An agency shall be established by law in the executive branch of the state government." Of course, if you go on and read the rest of the section, then you get the idea, but by setting this sentence apart don't you think that "an agency" might feel just a little lonesome, Mr. McLaughlin?

McLAUGHLIN: That is in terms of style that you feel that we should combine the first and second sentences?

SMITH: It just occurred to me that it would make the meaning a little more clear merely in the matter of style, and I merely raise the question and call it to the attention of the Committee Chairman.

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

McLAUGHLIN: It's purely a matter of taste Mr. Smith, I agree, and possibly yours is superior to mine, but if you would yield on that one point, I think it would expedite the passage of this. Do you feel it's grammatically bad?

FIRST VICE PRESIDENT: Mr. Armstrong.

ARMSTRONG: I just wanted to call attention to Section 12 -- we have the same situation and I thought that Style and Drafting had made Section 14...

McLAUGHLIN: We had in the past, Mr. Smith. It is true we had the establishment of these two agencies and we conformed the language; that is Section 12 sets up the local boundary commission or board which shall be established by law in the executive branch of the state government, and we carried on down the form at least down to Section 14 and we added the words "of the state government" for fear there might be some confusion with the executive branch of the local government or some such thing.

SMITH: I am completely satisfied, Mr. President.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: I would like to say I think there is a slight difference at least between the first sentence of Section 14 and the first sentence of Section 12. Looking at the one in Section 12 it makes pretty good sense, "A local boundary commission or board shall be established by law in the executive branch of the state government". There is some description of what it is all about. In Section 14 it says "an agency shall be established by law" and there is no reference within that sentence as to what kind of agency. I would ask unanimous consent that in line 21 after "government" strike the period, strike the word "it"; on line 22, strike the first word "shall" and in its place insert the word "to".

V. FISCHER: Mr. President, may we have a two-minute recess.

FIRST VICE PRESIDENT: Without objection, it is so ordered.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Sundborg.

SUNDBORG: If I had the floor -- I am making the same unanimous consent request, which I renew, and add to it the following: on line 22 change the comma to a period after the word "government" and insert after it "It shall" starting a new sentence. The section then would read: "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information and perform other duties prescribed by law". I ask unanimous consent.

FIRST VICE PRESIDENT: Do I hear any objections; if not, it is so ordered.

McLAUGHLIN: Are there any further questions now, as to Section 14? Are there questions as to Section 15?

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: May I ask Mr. McLaughlin a question?

McLAUGHLIN: May I inquire of Mr. Coghill whether this is a question as to existing style or a change in substance.

COGHILL: That was the question I was going to ask you. What do you consider a substantive change in that section?

McLAUGHLIN: I have not said, Mr. Coghill, that there is a substantive change. I have pointed it out as a possible substantive change. If, through the Chair, you will withhold your question, I am prepared to ask an acceptance of the report of the Style and Drafting Committee, so that the necessary amendments or remarks addressed to the Chairman of the Local Government Committee Chairman would be in order. I would like to inquire if there are any questions as to style on Section 15, Mr. Chairman, since there are no further questions, I ask unanimous consent that the report of the Style and Drafting Committee be accepted as to style only.

FIRST VICE PRESIDENT: Did you ask unanimous consent?

McLAUGHLIN: I do.

FIRST VICE PRESIDENT: You have heard the request; do I hear any objections? If not, it is so ordered.

BUCKALEW: Mr. President, is this the proper time for amendments.

FIRST VICE PRESIDENT: It depends on what type of amendment it is. I understand one is by two-thirds, the other is by majority.

BUCKALEW: I don't know whether this is -- I think it is an amendment to form probably.

FIRST VICE PRESIDENT: You may offer your amendment and determination will be made.

BUCKALEW: That is just a rough guess. Will the Clerk be kind enough to read it?

CHIEF CLERK: Change "borough" wherever it appears in the article and insert the word "county".

DOOGAN: Point of order. This has already been decided.

JOHNSON: Point of order.

FIRST VICE PRESIDENT: Mr. Johnson, would you state your point of order, please.

JOHNSON: Under suspension of the rules it would be perfectly proper.

BUCKALEW: Is it proper now to ask that the rules be suspended? I ask unanimous consent that the rules be suspended for that particular amendment.

FIRST VICE PRESIDENT: You have heard the motion for the suspension of the rules. All in favor signify by saying Aye...

HERMANN: Point of order.

FIRST VICE PRESIDENT: What is your point of order?

HERMANN: My point of order is that you can't suspend the rules by a voice vote.

FIRST VICE PRESIDENT: Sometimes that is left to the Chair, Mrs. Hermann. In this case we will order it. Will you call the roll, please.

(The roll was called with the following result:

Yeas: 20 - Barr, Buckalew, Coghill, Collins, Cooper, Emberg, H. Fischer, Gray, Harris, Johnson, Kilcher, King, Laws, Londborg, Metcalf, Nolan, Peratrovich, Poulsen, Reader, Wien.

Nays: 31 - Armstrong, Awes, Boswell, Cross, Davis, Doogan, V. Fischer, Hellenthal, Hermann, Hinckel, Hurley, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White.

Absent: 4 - Hilscher, McNealy, Riley, and Mr. President.)

CHIEF CLERK: 20 yeas, 31 nays, and 4 absent.

FIRST VICE PRESIDENT: The motion has been lost. Are there other amendments? Mr. Kilcher.

KILCHER: I move that we stand at recess until five minutes to four.

FIRST VICE PRESIDENT: Is there a second to that?

COGHILL: I second the motion.

SUNDBORG: Mr. President, if we do recess, I want to announce a meeting of the Style and Drafting Committee immediately at the rear of the gallery.

FIRST VICE PRESIDENT: Are there any other announcements? All in favor of recessing say Aye; contrary? We stand at recess until tenn to four.

RECESS

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

BARR: May I have the privilege of the floor, not a personal privilege, for a moment. An amendment has just failed changing the word "borough" to "county" in your absence. I would like to say on this subject: during the hearings it was brought out by the people in some places that they disapproved of the word "borough" and I, in speaking to my friends around Fairbanks, have never known anyone who favored it except those on this floor. Now, we took a vote the other day and the word "borough" got the highest number of votes, but I still don't think it is really indicative of what this body wishes and for this reason. There were several words offered and the vote was divided. The word "county" came second and I know there were lots of people who had a second choice -- second to the choice of "county", and who thoroughly detested the word "borough". The vote on borough was 27, which is not a majority in this body. Now I am going to submit another amendment. I don't know whether it will pass, in fact, I doubt it very much, but I am willing to go to any length to keep from living in a "borough" the rest of my life; and I am sure my constituents who sent me here, if this should succeed, will figure I earned my money for the entire Convention if I can get that passed because they don't want to live in a "borough" either. This word "borough" is foreign to Alaska; it has no connection with Alaska. It is used as a division of a big city; it is used in England. It has nothing to do with Alaska; and I am going to ask for a suspension of the rules and submit the word "Division", because that is Alaskan and that is a simple word that everybody knows and it doesn't conflict with anything like District does. District conflicts with election

district and so on, but Division is a good word and I think a lot of people who voted for county would vote for that. Now I would like to ask a question of the Chair. When we change the name "borough" to something else, it seems to me it is merely a change in styling because we are not changing the form of government or anything else. We are changing the word to describe it so it should only take a majority vote. I should like to have a ruling of the Chair on it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I make a point of order in reference to that. We have already had an amendment that submitted the word "District" or "Division" or whatever it was, and we voted it down, so it is subject to that point of order.

PRESIDENT EGAN: Mr. Barr.

BARR: That name was one of several that were submitted and was not voted on according to this system. In other words, the votes were badly divided at that time; now we would be voting between two names.

PRESIDENT EGAN: Mr. Barr, the Chair does not -- it is not entirely clear in the Chair's mind whether changing the name would be a matter of substance or a matter of phraseology, but the point raised by Mr. Sundborg, that we have voted as individual delegates on every one of these names, if a new name were submitted, then, different than the ones we had actually voted upon, the Chair would be in a position that it would have to rule one way or the other on the substance or phraseology, but we have already voted on county, district, borough, province, and division. We actually voted on those names, Mr. Barr, the Chair could not go along with seeing that an amendment offering one of those names would be in order.

SUNDBORG: I raise another point of order and that is that we, I think by unanimous consent or at least nearly that, adopted a special rule which provided the manner of choosing the name of this unit of government, and it would require a suspension of that rule by a two-thirds vote to choose any other name since we have made our decision.

PRESIDENT EGAN: Mr. Barr.

BARR: That is correct, Mr. President. That special rule applied to that vote. We have passed that point and are in another stage of the game, and it doesn't apply any more.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr, the Chair has no other alternative but to rule that, in any event, the Convention has already voted on using the word "Division" that you offer, and it would take a suspension of the rules in order to offer that amendment because we have already voted upon it.

BARR: If a different word was submitted which had not been submitted before, is it then a style and drafting matter?

PRESIDENT EGAN: Well the Chair would have to hold that, if an amendment proposing that a different word be used, that it wouldn't be substance; it would be phraseology; and the Chair understands from the record that the phraseology changes or the substantive changes have not as yet been adopted; so a phraseology change would take a majority vote, yes.

BARR: I would now relinquish the floor on my privilege, and I would like to move an amendment which is simply this: strike the word "borough" wherever it may appear in the Article and substitute therefore the word "area". I ask unanimous consent.

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that the word "area" be inserted wherever the word borough appears in the Article. Is there objection? Objection is heard. Is there a second?

KILCHER: I second.

PRESIDENT EGAN: Seconded by Mr. Kilcher that the word "area" be used wherever the word "borough" appears.

HERMANN: Musn't we ask for suspension of the rules?

PRESIDENT EGAN: Mrs. Hermann, the report of the Style and Drafting Committee has not yet been adopted. It has been accepted, but has not been adopted by the Convention.

HERMANN: That is a style amendment then?

PRESIDENT EGAN: The Chair cannot see that it is possible to rule otherwise, because it doesn't change the make-up of the particular entity of government. Miss Awes.

AWES: Mr. President, I think it is, and under these circumstances a change in substance -- it is not just picking the best word for the purpose. The Committee, and then the Convention worked on a name. It is not just a word; it's a name for a unit. Logically, if it were just a matter of style, then it would have been up to the Style and Drafting Committee, and I can imagine how that Committee would have liked it if it had all been left up to that one Committee without our say-so. I think it is a matter of substance, because I think it is a name and not just a word or phrase.

PRESIDENT EGAN: The Chair cannot see where it is a matter of substance and has so ruled. Mr. Fischer.

V. FISCHER: I would like to point out further -- I happen to have the Style and Drafting report open to page 2 -- and the first sentence I looked at would read, "Service areas to provide special services within an organized area may be established". What would it mean?

PRESIDENT EGAN: Mr. Fischer, what was your question?

V. FISCHER: What I am trying to point out is the substitution of the word "area" could very well disrupt the operation of the whole Article.

PRESIDENT EGAN: In using that particular word, you mean?

V. FISCHER: That is right. Therefore, it can be a substantive change.

PRESIDENT EGAN: Because of the particular word. Mr. Barr.

BARR: This word "area" I believe is a good one to apply here. A "division", for instance, as we now have it in Alaska means a particular division of the government, or the area of the country. Of course, the word "division" in its broader sense means just a part of anything as the word "area" Mr. Fischer is speaking of means. It means any area. But if we used this word "Area" capitalized in this Article, we would know what we were speaking of as we use the word Judicial Division capitalized at the present time. An "Area" wouldn't be confused with any other division of government, and it is well-known what area means. It would be applied, say, to the "Juneau Area" and "Fairbanks Area". We would not be saying "Eagle Borough" or "Beaver Borough", and the people outside of Alaska, when they come here, they will know it is an area of Alaska -- a certain area -- whereas, if we speak of "borough", they don't know whether it is south Fairbanks we are speaking of or a larger political subdivision. They are used several ways. And they might think they were back in jolly old England for that matter.

PRESIDENT EGAN: Mr. Barr, the Chair is not withdrawing from the ruling that a proper wording change would be a substance change. However, Mr. Fischer has raised a point of order with relation to the particular word that you have chosen -- that because of the particular word you have chosen, a very serious difficulty could be encountered. Now, for that reason, the Chair could see that using that particular word that you have offered could become a matter of substance, because it could conflict throughout the Article with any mention of other service areas by using that word.

BARR: Mr. President, if the word I am using were capitalized wherever it was used in the Article, wouldn't it be the same as

the word "Division" now, when it is capitalized? It doesn't mean anything else.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I might say that the style we have adopted and used consistently throughout this Constitution with reference to capitalization is that nothing in this Constitution is capitalized except the first letters of first words in a sentence, the word "God", the word "State", and the words "United States". We don't capitalize "Congress"; we don't capitalize "legislature"; we don't capitalize "governor"; we don't capitalize anything, and I would certainly resist capitalizing the word "area". I have a couple of other dandy things that would happen if we were to use this. It would say, "An entire area of the state shall be divided into areas", and "Each area shall embrace an area".

BARR: You wouldn't say that Mr. President. You would say, "The entire area of the State will be divided into political subdivisions called areas".

PRESIDENT EGAN: Mr. Barr, the Chair would have to rule that that particular amendment that you offer as of now is out of order because that particular word would create confusion and cause undoubtedly substantive difficulties.

BARR: Mr. President, I don't exactly agree with the Chair. It seems to me instead of a ruling, that is part of the debate. However, I ask for unanimous consent for the withdrawal of the amendment.

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

PRESIDENT EGAN: Are there other amendments to be proposed for Sections 1 or 2? Mr. Barr.

BARR: Mr. President, I have an amendment, but it will take just a little while to write it out.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a little while.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr, if it is all right with you, we will proceed with other amendments which might be proposed...

BARR: That is all right, but first I would like to make a motion that we rescind our action when we voted for the word "borough", and ask unanimous consent.

PRESIDENT EGAN: Mr. Borough -- Barr (laughter) -- Mr. Barr moves and asks unanimous consent that the Convention rescind the

action taken in voting upon the motion that eventuated the use of the word "borough" throughout this Article. Is there a second to the amendment?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the proposed motion. Mr. Barr.

BARR: The reason I believe we should rescind this is because a lot of us would like to change our selection from the word -- from the one word that we voted for and that failed at that time to a second choice. Since the word "borough" only passed by a vote of 27, we may very well vote for a different word the next time.

PRESIDENT EGAN: The question is: "Shall the Convention rescind its action taken in adopting the word 'borough' throughout this Article? The Chief Clerk will call the roll. Now if you vote "yes" you will be voting to rescind the action taken with relation to the word "borough", and would then throw before the Convention a vote on the same question we had at that time; that is, whether or not it should be "borough", "county", "division", "province", and so forth. If you vote "No", you are voting to retain the word "borough" throughout the Article. Mr. Cooper.

COOPER: May I ask a question before we vote on this? In the event the action were rescinded and the names put before us again for a vote, would the Chair give us a ruling as to a person who has voted for a particular name getting up and changing his vote to another name, without going through another vote, such as happened last time? I do not think that that was exactly what was intended in the beginning.

PRESIDENT EGAN: Mr. Cooper, anyone may change his or her vote prior to the time the vote is announced. That is the right of any delegate or any person in any assembly, that prior to the time the vote is announced, they may change their vote if they so desire.

COOPER: I realize that, but on this particular vote it was not really a vote "aye" or "nay"; it was a vote for a name, and the change -- of course I understand the name would be in a sense a vote, but the change of their vote was a change from a name to another name.

PRESIDENT EGAN: The Chair cannot see that there would be a difference. Mr. Boswell.

BOSWELL: I questioned that voting the other day, too, because we drew up some rules that we would follow a certain order and drop off the low name each time and continue on. And it seemed to me at the time that we didn't follow our rule as we laid it out.

PRESIDENT EGAN: Mr. Boswell, on the other hand, the rule is that anyone has a right to change before it is announced. If it had been announced, then after that no one could have legally changed the manner in which they voted. Actually, their vote is not counted or tallied until it is announced by the Chief Clerk, and it takes some time to tally any ballot. The question is: "Shall the Convention rescind its action?"

(The roll was called with the following result:

Yeas: 20 - Barr, Boswell, Coghill, Collins, Cooper, H. Fischer, Johnson, Kilcher, Knight, Laws, Londborg, Metcalf, Nolan, Poulsen, Reader, Wien.

Nays: 35 - Armstrong, Awes, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Mr. President.

Absent: 4 - Buckalew, Hilscher, McNealy, and Robertson.)

CHIEF CLERK: 16 yeas, 35 nays, and 4 absent.

PRESIDENT EGAN: So the nays have it and the Convention has failed to rescind its action. Are there other amendments? Mr. Barr.

BARR: I still would like to put in an amendment, but, as I say, it will take a little time to write it out. I suggest the house continue with its business and that I be allowed to submit it a little later.

PRESIDENT EGAN: Are there proposed amendments to Sections 1 or 2? Mr. Londborg.

LONDBORG: In Section 2 we have a reference here to the name we have just been voting on. How would you put in an amendment as to pronunciation?

PRESIDENT EGAN: Mr. Londborg, in the opinion of the Chair it isn't necessary to put in such an amendment.

LONDBORG: I was just wondering, because remember when the proposal was before us, it was said the official pronunciation was bor-o, or something. Now I have this letter before me and it's very confusing. "Borough" has gone out in newspapers all over the world, no doubt, and now we have this as official. I thought Mr. Doogan was certain about it, and now he has this letter and

I am wondering if it shouldn't be officially changed to what it should be.

PRESIDENT EGAN: In the opinion of the Chair, the majority or plurality had the right idea when they called it "burro". (laughter) The Convention will come to order. Are there amendments to be offered for Sections 1 or 2? Section 3? Are there amendments to be proposed for Section 4? Or for Section 5? Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. McLaughlin a question regarding Section 4? He got a little ahead of me. Section 3, at the top of page 2, line 2. Here we again refer to boroughs organized, incorporated, merged, consolidated, dissolved, or classified. Do you want to get the word "reclassified" in there?

McLAUGHLIN: Mr. Rivers, just to expedite the amendment, I am sure the Committee would have no objection if you struck the word "merged" and left merely "consolidated", and I am sure the Convention would unanimously consent to removal of the duplication.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I believe we went over that in Committee, and "merged" has a definite meaning in there. It's different from "consolidated".

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I withdraw. I overlooked the fact that on line 1 the legislature classifies them in the first place, and classify doesn't have to be in on lines 2 or 3, so I back up.

PRESIDENT EGAN: Are there any questions with relation to Sections 3 or 4? If not, are there questions relating to Section 5 or amendments to be offered? Are there amendments for Section 6? Mr. Hinckel.

HINCKEL: I have a question I would like to ask before I make an amendment. It states here that the Legislature shall provide funds for services in unorganized boroughs. Before this was rewritten, it stated that the Legislature shall provide those services deemed necessary. To me that makes a difference. It looks to me now as though people in unorganized boroughs could demand services such as garbage collection and so on that might be rather expensive, whereas before, it was discretionary on the part of the Legislature whether they would furnish these services.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: The Committee did strike "it deems necessary or advisable" -- "The legislature shall provide for the performance

of services it deems necessary or advisable in unorganized boroughs". It was believed by the Committee when we struck that, that the Legislature in its wisdom could determine what was necessary or what was advisable. As I understand it, your objection is it makes it mandatory that they provide all services...

HINCKEL: I thought possibly it would be all right to strike the words they did -- but I think we could possibly substitute "may" for "shall", so there would be some discretion permitted.

McLAUGHLIN: I am sure the Committee would have no objection to striking the word "shall" and substituting the word "may", subject to objections from the Committee.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. McLaughlin, isn't it a fact that that would possibly mean that the legislature would provide a manner in which unorganized boroughs could provide their people in that borough with these certain services? The legislature is not going to provide the services or performance of services, are they?

McLAUGHLIN: When they say they "shall provide for the performance of services", it means they shall make provision for them.

TAYLOR: Then in an unorganized borough then, if they were in need of garbage services, the legislature would hire garbage men? Is that right?

McLAUGHLIN: It doesn't necessarily mean that. There are two possible meanings. If we said the legislature "shall" provide the services, that would be one thing; but if we say the legislature shall provide for the performance of services, I think that that means another thing. That is, they can set up the rules and conditions and circumstances under which the services will be provided.

TAYLOR: Would that mean there is some way in which the unorganized boroughs could enter into a contract for the building of a power plant or light plant, or garbage service, or whatever was needed in the line of a public utility?

McLAUGHLIN: No, I don't think it does mean that.

TAYLOR: You gave two different meanings you could impute to it. Which one are we adopting?

McLAUGHLIN: You are adopting the one which is before you; that is, "The legislature shall provide for the performance of services in unorganized boroughs, allowing for maximum local participation and responsibility".

TAYLOR: Well, your definition a few moments ago was that you could impute two meanings to that. Which one do we have here?

McLAUGHLIN: The same meaning that they had in the enrolled copy, because the language is identical.

PRESIDENT EGAN: Mr. McLaughlin and Mr. Taylor, Mr. Rosswog has been attempting to get the floor. As Chairman of the Committee, do you have the answer, Mr. Rosswog?

ROSSWOG: Well, maybe I can clarify it a little bit. It wasn't our intention that the unorganized boroughs could demand services of the State, but that the State could supply those services. If they were unorganized, they would not have an organization to demand it. But that is one of the reasons we wanted to go on and make the addition to that paragraph, so that it would be possible for the State to allow the setting up of special service areas. But the first sentence there as it was in the copy, I don't think it would make much difference whether it was qualified by putting "necessary services" or not in there. There would be no way to demand services if you were an unorganized area.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Rosswog, in the Style and Drafting Committee proposal, Section 6, line 23, do you know whether your Committee would have any objection to substituting the word "may" for "shall"?

PRESIDENT EGAN: Mr. Rosswog, could you answer that?

ROSSWOG: I believe we did discuss that in the Committee. We -- it may change the meaning of it there a little. We felt it would be necessary in an unorganized area, such as outside of a city today, the Territory has to supply some services, and if we placed it "may", it might leave it that they would supply none at all.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, unless possibly Mr. Taylor might possibly want to amend and insert the word "necessary" before services on line 24, then he would raise the issue as to whether or not this was a substantial change by Style and Drafting -- a change in intent.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I think I am about to propose an amendment. I think our trouble stems from the fact that the words "it deems necessary of advisable" were stricken. Mr. Rosswog says if you simply say "may", you are leaving a void as to whether or not

the Territory or State government will perform any services. Presently the Territory performs -- renders school -- complete school services outside of organized districts, the state Health Department exercises some jurisdiction in regard to health control, and in regard to highways and things like that. We should leave the word "shall" if we don't want to change the meaning, but then we don't want to say "services" without any modification, because we don't know what kind of services are being referred to or how detailed the services would be. We are saying "shall" so we have to limit what it is we're telling them that they shall do. So I move the restoration of the words on line 24, Section 6. page 2, after the word services, "it deems necessary or advisable".

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

CHIEF CLERK: Insert the words "it deems necessary or advisable" after "services" on line 24.

PRESIDENT EGAN: Is there a second to the motion?

McLAUGHLIN: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection?

DAVIS: I object.

PRESIDENT EGAN: Objection is heard. Seconded by Mr. White. Is there further discussion? Mr. Coghill.

COGHILL: I would like to ask a question of the Style and Drafting subcommittee on this. Would it not take care of it in the amendment you just offered a while ago where it says it "may exercise any powers"? Wouldn't that be within the scope of the legislature then?

McLAUGHLIN: I think that Mr. Rivers' language and the Committee's original language -- this is my personal opinion -- is better; that "it deems necessary or advisable" will put the intent unquestionably exactly where it was when we first approved this when it was enrolled. That is the only reason why I do it, to clarify any question.

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 amendment is ordered adopted. Are there other amendments to be proposed for Section 5 or 6? Mr. Coghill.

COGHILL: Mr. President, may I ask a question of the Local Government Committee? Mr. Rosswog, in going over the report of the Style and Drafting Committee, I haven't found where the intent of the Committee lies as far as organized taxing authority not within organized boroughs. Would you point that out to me, where that language is, whether a health district or a school district could be organized and have taxing powers outside of an organized borough?

ROSSWOG: I believe that would be shown in the amendment that we have for Section 6. Mr. McLaughlin, were you going to propose that amendment?

McLAUGHLIN: Yes. I was prepared to propose one. I inserted for convenience in the sentence following Section 6 on page 2, "It may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough". Is that the one?

ROSSWOG: Yes, that is the one.

McLAUGHLIN: Mr. Chairman, I move the addition of the sentence quoted to Section 6.

PRESIDENT EGAN: It is moved, seconded by Mr. Doogan, that the amendment be adopted. Is there discussion? Mr. Rosswog.

ROSSWOG: This amendment has the approval of the Local Government Committee. It clarifies this section, and I would like to ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, it is so ordered, and the amendment has been adopted. Are there other amendments to be proposed for these sections? Mr. Coghill.

COGHILL: No amendment, but another question. It is still not clear in my mind that this would extend taxing powers to a service area inside of an organized borough.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Maybe I can answer that. It is felt here that all powers of local government are established in organized boroughs and cities, and stating here that the legislature may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough would place it right there.

COGHILL: If I may carry on the question -- this allows the legislature to do it, but we don't want the new state to do the administering of this particular special district. Now, let's

just take for an example a health district set up in an unorganized borough. They should have some sort of fiscal and administrative values to their organization and that wouldn't do it; that would be providing that the legislature would do it for them.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, if you will look at this section, at the last sentence, and insert the word "legislature" for assembly, you would have it, that they would authorize the levying of taxes. They can give that power then to a service area as I understand.

PRESIDENT EGAN: Are there amendments to be offered for Sections 5 or 6? Mr. Victor Rivers.

V. RIVERS: The answer to Mr. Coghill's question in part, I think will be found in Article 17/c, a provision there for transitory activities of existing districts of which you speak.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I don't wish to continue this on. I thought there might have been an intent here that I had not interpreted. It's not my concern with the districts we now have, Mr. President, it's the districts that might be formed in an unorganized area. It's not provided for in this article as far as I can see, and I thought we had provided for it. Mr. Fischer might be able to enlighten me on it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: All I can do is restate what Mr. Londborg just said that by putting the legislature in the same position as the assembly in Section 5, they could establish service areas or provide for the establishment of such service areas and grant them taxing powers.

COGHILL: That is not in the Article right now.

V. FISCHER: Yes it is. It is on page 2, line 20.

COGHILL: Yes, but that says the assembly may. The assembly is not the legislature; the assembly is the governing body of the borough.

V. FISCHER: Well, we are saying in the sentence that was just unanimously added that it, the legislature, may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough.

PRESIDENT EGAN: That is an amendment that has been adopted. Maybe you don't have that written down.

COGHILL: I have it written down, but it seems to me it is kind of backwards. You are allowing the legislature to do something which the local government could do. I see the intent now.

PRESIDENT EGAN: Are there other questions or proposed amendments to those two sections? If not, are there amendments or questions relating to Section 7 or Section 8? If there are no other amendments to Sections 7 or 8, are there amendments to be proposed for Section 9? For Sections 10 or 11? Are there amendments for Section 12? Mr. Rosswog.

ROSSWOG: I wonder if it was ruled under the Style and Drafting that the change shall become effective within 45 days, if it was accepted, or would that be a new amendment?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: To clarify that, I move that the assembly adopt the substantive change made by the Style and Drafting Committee, commencing on line 5 of page 4, and reading "The change shall become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house". I so move, and ask unanimous consent.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the change made by the Style and Drafting Committee be adopted. Mr. Taylor.

TAYLOR: I am going to make an objection for the time being.

PRESIDENT EGAN: Is there a second?

DOOGAN: I second.

TAYLOR: I guess I will withdraw this. There is a question I wanted to ask, but I assume they mean that the presentation -- I see. I will withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the change is ordered adopted. Are there other questions or amendments for Section 12. Are there amendments for Section 13? Section 14? Mr. Hinckel.

HINCKEL: I have a question. Section 14 originally stated that provision shall be made by law for an agency in the executive branch of the government to render assistance and advice to local governments and charter drafting agencies. During the discussion it was particularly brought out that cities or boroughs would probably need assistance in charter drafting. It was expressly stated that they would be able to get that assistance, and I just wonder if Style and Drafting feels that their language covers that fully so that there will be no question about their being able to get that assistance.

McLAUGHLIN: That specific question arose, and we consulted with the Local Government Committee and it was the consensus of the Committee, with no one objecting that there was no point in mentioning any specific agency of the local government, such as a charter drafting agency, and that the advice and assistance would automatically be advice and assistance to any subordinate boards, commissions, or agencies of the cities.

HINCKEL: Just as long as it is in the record, then, I am satisfied.

PRESIDENT EGAN: Are there other questions relating to Section 14, or amendments? Are there amendments to be proposed for Section 15? Mr. Johnson.

JOHNSON: I move that the original language reported by the Style and Drafting Committee as to Section 15 be restored.

PRESIDENT EGAN: The original language as reported by the Local Government Committee, you mean, Mr. Johnson?

JOHNSON: No. I meant as it appeared in Section 15 of the Style and Drafting Committee report. There was a change made.

PRESIDENT EGAN: You move that the...

JOHNSON: I move that Section 15 be changed to read: "At the time a borough is organized special service districts performing local functions shall be integrated with the government of the borough as provided by law".

PRESIDENT EGAN: It would only take a majority vote to reject the Committee's report as to that section. Is there a second to the motion?

COGHILL: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Coghill; moved by Mr. Johnson. Mr. White.

WHITE: Point of order, Mr. Chairman. I don't think we have adopted that change in Section 15.

JOHNSON: It was adopted as to style but...

PRESIDENT EGAN: It has been accepted...

WHITE: There is some question. We have been using the words, "accept the report of the Committee on Style and Drafting and adopt the changes". That language has not been used here today. There is a question in the minds of some of us as to just where we stand. We have so far only accepted the report of the Committee on Style and Drafting.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wonder if Mr. Johnson would consent to withdraw his motion while I put the usual motion that the changes be adopted.

PRESIDENT EGAN: Probably, Mr. Sundborg, that would be proper, inasmuch as Mr. McLaughlin has offered some of the other Committee proposals -- already offered the amendments -- the adoption individually, that Mr. Johnson withdraw his motion, and then Mr. Sundborg move that this Committee change be adopted.

JOHNSON: I will withdraw.

PRESIDENT EGAN: Then it wouldn't create any confusion in the minds of the delegates. If there is no objection, Mr. Johnson's amendment is withdrawn.

SUNDBORG: It is understood then that Mr. Johnson's amendment would still be subject only to a majority vote? Is that correct?

PRESIDENT EGAN: That is correct.

SUNDBORG: I move now, then, Mr. President, that the amendments or changes represented in the report of the Style and Drafting Committee on the Article on Local Government be adopted. I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg, that isn't what the Chair meant. The Chair meant that now we have already adopted some of those changes by individual motions. It would be better if you would ask that this particular substantive change asked for in Section 15 be adopted at this time -- that alone.

SUNDBORG: Mr. President, there are probably a thousand or more changes which have been made since the enrolled copy was passed upon by the Convention, and usually what happens here is that a motion is made at the proper time that the report of the Committee be accepted, and that the changes represented in that report be adopted, and then the Convention takes on the work from there.

PRESIDENT EGAN: Mr. Sundborg, the Chair erred a moment ago when you asked a question, would it then only take a majority vote. If we adopt your motion now, any changes after that would take a two-thirds vote. So the Chair didn't realize that that's what you were asking -- for the adoption of the entire report of the Style and Drafting Committee.

SUNDBORG: Mr. President, I ask unanimous consent to withdraw the motion I just made, and I will ask that the changes in language --

PRESIDENT EGAN: If there is no objection, the motion is withdrawn.

SUNDBORG: ...the changes in language noted by Mr. McLaughlin when he was presenting this Article, in Section 15, be adopted by the Convention. I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent.

JOHNSON: I object.

SUNDBORG: I so move.

PRESIDENT EGAN: It is so moved by Mr. Sundborg, seconded by Mrs. Hermann. The motion is open for discussion. Mr. Johnson.

JOHNSON: I don't wish to belabor the point too much, but I feel a decided substantive change has been made by this proposed language, because as the section read originally, not only the enrolled copy, but Section 15 as originally proposed by the Style and Drafting Committee, the special service districts performing local functions should be integrated with the government. Now, it is conceivable there might be within a borough, an organized borough, special service districts which were performing state functions, and if you change the language to read as they want to "existing at the time a borough is organized", instead of "special service districts performing local functions", you are changing the meaning, the original intent, and I feel it should be left as it was when it went off the floor after second reading, and that only special service districts performing local functions should be integrated with the government of the borough as provided by law.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: We approved this change as it has been proposed because it plugged a loophole which the Committee originally intended to plug, but we found we didn't have exactly the right language. The argument that could be construed if we left the language as it is: Is a school district a local function or isn't it? And our purpose was that all districts be under the jurisdiction of a borough. So that was the reason for the change, and that's the reason we approved it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I should state here that this change, while offered by the Style and Drafting Committee, was not the invention of the Style and Drafting Committee. It was proposed to us and urged by the substantive committee, the Committee on Local Government. We reviewed it as to language and phraseology only and agreed to offer it in connection with our report, but it is their suggestion and not our suggestion, and I have no feelings about it myself and I am sure no member of the Style and Drafting Committee does.

PRESIDENT EGAN: Mr. Sundborg, it will be necessary to carry your motion that it be carried by a two-thirds vote, because it is a substantive change.

SUNDBORG: And you rule then, that it is a matter of substance?

PRESIDENT EGAN: It seems to the Chair that it is a matter of substance. Would the Chief Clerk please read the proposed amendment again?

CHIEF CLERK: "Delete 'at the time a borough is organized', and start the sentence with 'Special' on line 2, 'Special service districts', and insert 'existing at the time a borough is organized, shall be integrated with the government of the borough as provided by law'."

PRESIDENT EGAN: Of course, it originally would have meant that any borough, regardless of when it came into existence, would come under this section. Now, it means just those boroughs that existed at the time. Mr. Doogan.

DOOGAN: I am going to raise a point of order on the question. It was the intention of the substantive committee and it was explained on the floor that any districts existing at the time a borough was organized would come under the jurisdiction of the borough, and I think if you will look in the record you will find that that is so. So I maintain it is not a substantive change. It is a change in wording to carry out the intent of this body.

PRESIDENT EGAN: Mr. Doogan, if we can go back to the record -- now the Chair does not recall, naturally, exactly what was stated for the record on this proposal. If it was made clear at that time and is on the record, then it could be classified as a clarifying phrase, but in the absence of the record, it is, in this wording, a change in meaning if the delegates feel that there is a change -- the Chair can see by reading the section that there is a definite change in meaning, right off-hand. Unless you ask that we go back to the record, the Chair would have to rule that it is a substantive change. Mr. Sundborg.

SUNDBORG: If that is the ruling of the Chair, then I will withdraw my motion, and the motion should be phrased, "I move to suspend the rules and to submit an amendment which would be as has already been read by the Chief Clerk".

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended -- unanimous consent is asked that the rules be suspended for the purpose of submitting this proposed amendment. Is there objection?

COGHILL: I object.

PRESIDENT EGAN: Objection is heard. Mr. Sundborg so moves, seconded by Mr. White, that the rules be suspended. Mr. Smith.

SMITH: Would it be possible to ask a question of the Chairman of the Local Government Committee before this vote is taken?

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

SMITH: I just wanted to know whether special service districts includes school districts.

ROSSWOG: We did feel that special service districts would cover all special districts, and that the wording "performing local functions" -- it was our intention, I believe, to cover all districts. We felt they were doing local functions and should be covered, but in reading it, why -- it may limit or be a question there, and so we thought those words should be deleted and rewritten.

SMITH: The question in my mind, Mr. Rosswog, was that even with the new wording where you say "special service districts", do you mean school districts along with all the other service districts?

ROSSWOG: Yes, we do. We mean school districts, health districts, or anything along that line.

PRESIDENT EGAN: Mr. Gray.

GRAY: My understanding is this article is on local government, and to me this isn't a change in substance. It is exactly the same thing. It's a change in phraseology. Local functions is local government functions; it is not city. It is rural functions.

JOHNSON: Point of order. There is a motion before the house that is not debatable.

PRESIDENT EGAN: The question is: "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 43 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Londborg, McCutcheon, McLaughlin, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 8 - Coghill, Cooper, Hurley, Johnson, Laws, Lee, Marston, and Peratrovich.

Absent: 4 - Buckalew, McNealy, McNees, and Robertson.)

CHIEF CLERK: 43 yeas, 8 nays, and 4 absent.

PRESIDENT EGAN: The Yeas have it and the rules are ordered suspended. Mr. Sundborg.

SUNDBORG: I now move the adoption of the amendment.

GRAY: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment, seconded by Mr. Gray. The question is: "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention? Mr. Johnson.

JOHNSON: Mr. President, reference has been made to what transpired before. My notes indicate that when Section 15 was considered by the Convention before, the only amendment that was offered and passed had reference to the addition of some wording which says, "consistent with the provisions of this Article". Those words were added to the original Committee report. Otherwise it remained unchanged, and I have no recollection that the point as raised now by the Local Government Committee was ever considered at any time. I believe that the language as adopted in the original instance and as was reported by the Style and Drafting Committee is the proper language in this section, and that this motion should be defeated.

PRESIDENT EGAN: The question is: "Shall the proposed amendment be adopted?" All those in favor of adopting the amendment as offered by Mr. Sundborg will signify by saying "Aye"; all opposed by saying "No". The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 36 - Awes, Barr, Collins, Cross, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, Metcalf, Nerland, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 15 - Armstrong, Boswell, Coghill, Cooper, Davis, Emberg, Hurley, Johnson, Laws, Londborg, Marston, Nolan, Peratrovich, Reader, Stewart.

Absent: 4 - Buckalew, McNealy, McNees, and Robertson.)

CHIEF CLERK: 36 yeas, 15 nays, and 4 absent.

PRESIDENT EGAN: The Yeas have it and the amendment is ordered adopted. Are there other amendments for Section 15? Mr. Coghill.

COGHILL: Could I ask a question on Section No. 14 of the Committee Chairman? In the agency to be established by law in the executive branch of the state government to assist and advise the local governments, would that include the unorganized boroughs, the unorganized cities, the unorganized districts that wish to become organized?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I believe it could come under that. It states, "and can perform other duties prescribed by law".

COGHILL: It would be "yes", wouldn't it?

ROSSWOG: Yes.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I now ask unanimous consent that the amendments and changes made by the Style and Drafting Committee in the Article on Local Government in connection with this report back to the Convention, so far as they pertain to phraseology, be adopted.

BARR: Point of order. I have an amendment to make which was put off so that the business could be carried on. I would like to submit that.

PRESIDENT EGAN: This morning it was more or less the general feeling that Mr. Barr, rather than having us recess, would be working on any amendment he might have.

SUNDBORG: If it is not an amendment of substance, this is the time for it; if it is an amendment of substance, I would like to have my motion acted on first.

PRESIDENT EGAN: If it is an amendment of substance, it doesn't make any difference, Mr. Barr.

BARR: It is not an amendment of substance.

SUNDBORG: I then defer my motion.

BARR: The Secretary has my motion.

PRESIDENT EGAN: Would the secretary please read the amendment, that Mr. Barr would offer?

CHIEF CLERK: "Section 2, page 1, line 7, strike the word 'borough' and substitute therefor the word 'section', and take like action wherever the word 'borough' may appear throughout the Article."

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

SUNDBORG: I second the motion.

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

BARR: Mr. President, this word "section" doesn't conflict with anything. It is a recognized political subdivision. The dictionary gives it as "a division or part of a people or political division". It is used throughout the United States, usually to designate an area of the countryside, a section of land. All states of the Union, 47 of them, use county. I don't know why we have such antipathy here toward the word county, although some of us don't like the government. Louisiana, of course, uses the word "parish" to designate its political subdivisions. To this point we have adopted "borough". New York City is divided into boroughs, and I suppose maybe some other cities. I don't know which ones they are. Most of them are divided into wards. There is no reason we shouldn't have adopted the word "ward". Now, I will admit that New York City has some points, but really, as far as I am concerned, it's just a big overgrown stone prison that is overcrowded and noisy. I never did go there, although I have been in New York State, because I don't like to be in that kind of place. That is why I came to Alaska. Alaska is just the opposite; it's the opposite in every way, so I don't see why we have to adopt New York City's boroughs. "Section" is easily understandable and there is no mistake in what it means. It is a good solid American word and won't give us any trouble at all. I propose that we adopt the word "section". It will sound good; we will be speaking of the Fairbanks Section, Anchorage Section, and the Klawock Section, and when we say that, we will know what we mean.

PRESIDENT EGAN: Mr. Davis.

DAVIS: the first time this matter came up I voted for county. I was overwhelmingly voted down. It's true that some of the other folks changed over to borough, and we finally got the name of borough. Now, this is the fourth time, I think, this afternoon that we have taken this matter up on different names, and I think there are several thousand names in the dictionary, a good many of which could be applied. I want to know how long we are going to go on offering different names and bringing up this same question.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I want to call to the attention of the body that the word section is a term very generally used in the rectangular system of surveys used by the United States Survey and Land Office. There are 36 sections in a township, and a section is six miles square, and it is a very common term used in land descriptions, and would be very confusing to find that you had Section 36 in Township 13 North, Range 2 West, lying in the

Section of Anchorage or the Section of Fairbanks. It's part of the problem that the committee ran into. Both of the words that the delegate has submitted, both area and section -- both came into drastic conflict with other very common uses.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to congratulate Mr. Barr on his ingenuity in groping for a word to describe local government -- just any old word, as long as it isn't borough; but I think there is another score against section, and that is that it is a word that is used throughout our Constitution, referring to a part of the Constitution. We say, "As used in this section", or "In referring to Section so and so". I think it would be most confusing if we used it to describe a unit of local government.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I would confuse it with the Caesarean section.
(laughter)

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

BARR: That was just my point, Mr. President. You can find arguments against anything if you look long enough, but the arguments against borough are better than any of these that have been brought up. It is true that there are many words in the dictionary that could be adopted, and any one of them would be better than borough. That's my point. (laughter)

PRESIDENT EGAN: The Convention will come to order.

BARR: I am trying to get rid of the word "borough" because I want to be able to walk down the streets without having people throw rocks at me. I am not the only one who doesn't want to live in a borough. There are nine-tenths of them here. If people wonder why I am sticking to this and trying to get something else adopted, that is the reason. I think it is important to the people what we call these political subdivisions. It seems that a great many of you here don't think it is important, but the people in Alaska do. I doubt that this will pass. I am beginning to have my doubts, but it is a more serious problem than most of you think, and you will hear of it when you get home.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention? All those in favor of adopting the proposed amendment will signify by saying "Aye"; all opposed, by "No". The Noes have it and the amendment has failed of adoption. Are there other amendments for Article No. 10? Mr. Kilcher.

KILCHER: I have a very small amendment and will make it orally. It is the same subject and might have a chance to go through. I suggest that as a last compromise, a small compromise with the bigger ones we have made, that we at least change the spelling of this borough to b-o-r-o. I don't see any reason at all why we should stick to this u-g-h spelling. It hasn't changed since Chaucer used it. It has a nostalgic reference looking back towards New York and further beyond the ocean towards England. The spelling of b-o-r-o is commonly used in connection with and affixed to town names. I don't want to reiterate --

SUNDBORG: Point of order.

KILCHER: I am making a motion, Mr. President.

PRESIDENT EGAN: Did you move and ask unanimous consent?

KILCHER: Yes.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Moved by Mr. Kilcher, seconded by Mr. Buckalew, that the amendment be adopted. The Convention will come to order. Mr. Kilcher.

KILCHER: Mr. President, I realize that this matter has been stretched out slightly too much. And nonetheless, I am sure the problem is a little more serious than it appears, and I am sorry that "borough" has been actually adopted. It is a stop gap probably, from the Committee, and has been handed along as a dark horse choice, and there we are, we have it, and in order to alleviate the school children's spelling in the future, and in order to some extent undo the damage that we have done by adopting this "borough", a change of spelling I think would be welcome. It is George Bernard Shaw himself who said that if all the u-g-h's in the English language were cut out, the amount of secretarial work, print, ink, and paper that would be saved would amount to half of the English war debt in ten years. Of course, the problem is not as great with us, but certainly we could be modern in this respect. America has always been modern in changing the English spelling wherever it could, and this little amendment I think would clear up the air to some extent and it wouldn't harm nobody, and...

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention? All those in favor of adopting it will signify by saying "Aye"; opposed by saying "No".

PRESIDENT EGAN: The Noes have it and the amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: I move that the rules be suspended and that there be no further consideration given to the names of the local government units as given in the local government article.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended. Is unanimous consent asked?

LONDBORG: How can that be possible? We can always reach it by a two-thirds vote later. (laughter)

PRESIDENT EGAN: The Convention will come to order. Is there objection to the suspension of the rules in order that no more amendments can be offered on this subject.

PRESIDENT EGAN: Objection is heard. The question is: "Shall the rules be suspended in order that no more amendments can be offered upon this subject of the change in name of the Government entity. The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 18 - Awes, Barr, Boswell, Davis, V. Fischer, Hilscher, Hinckel, Hurley, Lee, McCutcheon, McLaughlin, Marston, Nerland, Nordale, Rosswog, Sundborg, Taylor, and Mr. President.

Nays: 34 - Armstrong, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Johnson, Kilcher, King, Knight, Laws, Londborg, Metcalf, Nolan, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sweeney, Vander-Leest, Walsh, White, and Wien.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 18 yeas, 34 nays, and 3 absent.

PRESIDENT EGAN: So the Nays have it and the rules have not been suspended. But on a question like this, the Chair does not feel it necessary to ask for a suspension of the rules and then -- what would be the question after that? Because it would take -- you would carry the meaning with your suspension of the rules and it isn't necessary -- it isn't a compound motion in a sense, but a compound motion is meant. Mr. Doogan.

DOOGAN: I move that the report of the Style and Drafting Committee as we have it before us now, be accepted, be adopted.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that Article X, the Article on Local Government, the report of the Committee on Style and Drafting with relation to that Article, be adopted. Mr. White.

WHITE: I object, but only for a question.

PRESIDENT EGAN: Your question, Mr. White, if there is no objection.

WHITE: Mr. McLaughlin, you pointed out only one change in substance in the mimeographed copy, that is on page 4. Is that the only change of substance made by the Committee on Style and Drafting in the mimeographed material?

McLAUGHLIN: That, to my knowledge, is the only change of substance made by the Style and Drafting Committee.

WHITE: Mr. President, I remove my objection.

PRESIDENT EGAN: Is there objection to adopting the report of the Committee on Style and Drafting with relation to Article X on Local Government?

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Doogan moves, seconded by Mr. Victor Rivers, that the report of the Committee on Style and Drafting in relation to Article X, the Article on Local Government, be adopted. The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 49 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 3 - Barr, Johnson, and Laws.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 49 yeas, 3 nays, and 3 absent.

PRESIDENT EGAN: So the report of the Committee on Style and Drafting on Article X has been adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the rules be suspended, that Article X be advanced to third reading, be read by title only, and placed on final passage.

JOHNSON: I object.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves, seconded by Mr. Doogan, that the rules be suspended, that Article X, the Article on Local Government, be advanced to third reading, read the third time by title only, and placed upon final passage. The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 47 - Armstrong, Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 5 - Barr, Coghill, Johnson, Laws, and Londborg.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: So the Yeas have it, the rules have been suspended, and Article X, the Article on Local Government, is now before us in third reading and up for final passage. The Chief Clerk will read the title of the Article.

CHIEF CLERK: Article X, Local Government.

PRESIDENT EGAN: Mr Barr.

BARR: I would like to explain my vote. I believe that the system of government as outlined in this Article is very good. I believe the Committee did very good work. I voted "No" because I believe that the people who sent me here -- it is not acceptable to them with that word "borough" in it. Now, that may not be very important, but I believe it is important to them, and I just wanted it on record that I voted no. Perhaps you think I am stubborn. I will agree with you.

PRESIDENT EGAN: Is there further debate or discussion of Article X, the Article on Local Government? Mr. Coghill.

COGHILL: I also believe that the Local Government Committee did a wonderful job here. However, I will be constrained to vote

against the Article because the provisions outlined do not provide for an equitable system of fiscal school operation within the Territory, and I believe, as it has been stated on the floor before, that our biggest resource is our children, and that we should provide for them through a system that will be nondiscriminate upon the administrators of that system. Therefore, I will be constrained to vote against this Article.

PRESIDENT EGAN: Is there further discussion? If not, the question is: "Shall Article X, the Article on Local Government, be adopted as a part of Alaska's State Constitution? The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 47 - Armstrong, Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, Marston, Metcalf, Merland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 5 - Barr, Coghill, Johnson, Laws, and Nolan.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: The Yeas have it, and Article X, the Article on Local Government, has been adopted as a part of Alaska's State Constitution. Mr. Doogan.

DOOGAN: Mr. President, I move and ask unanimous consent that we stand at recess until 7:00.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that we stand at recess until 7:00. Are there Committee announcements? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Committee on Style and Drafting immediately upon recess at the rear of the gallery. Mr. Hellenthal.

HELLENTHAL: Point of information. I wonder if the President of the Rules Committee, or the Chairman or someone informed, could tell us what work is ready for us to work on tonight so we will

