



LEGISLATIVE RESEARCH SERVICES

Alaska State Legislature
Division of Legal and Research Services
State Capitol, Juneau, AK 99801

(907) 465-3991 phone
(907) 465-3908 fax
research@akleg.gov

Research Brief

TO: Senator John Coghill
FROM: Patricia Young, Manager
DATE: April 10, 2015
RE: Constitutional Convention Delegates—Preference for a Strong Executive Influence over State Spending
LRS Report 15.382

You requested information pertaining to the intent of the constitutional convention delegates regarding the power of the executive branch over state spending.

The consensus of the delegates to the constitutional convention appears to have been to emerge with a strong executive. This preference, according to delegate Vic Fischer, resulted largely from the “highly diffused” executive authority and unresponsive government under the territory. Following those comments, he notes as follows:

In this situation, government was neither responsible nor responsive to the people. As a result, convention delegates were ready to make basic structural changes so the people could hold the governor wholly responsible for the conduct of state administration. In balance with a strong legislature and independent judiciary, there was little concern about creating too strong an executive.¹

While the constitution’s Article III (The Executive) is the primary source of the governor’s formal powers, additional powers granted include responsibility for preparation of the executive budget under Section 12 of Article IX (Finance and Taxation), and veto power under Section 15 of Article II (The Legislature).

Attached is a document containing the proceedings from January 11, 1956, the 50th day of the Constitutional Convention. In fairly short order the delegates took up Committee Proposal No. 5, concerning legislative powers and duties. The delegates began their discussion of this topic with the notion of a strong executive and focused on the governor’s veto power over appropriations and whether the normal override vote of two-thirds or the more difficult supermajority vote of three-fourths should be adopted.² That discussion begins on page two.³ Soon after, Steve McCutcheon, chair of the Committee on Legislative Branch, made the following statement:

We feel that in supporting a strong executive arm it should require a greater number than two-thirds of the total number of legislators to override the governor’s veto on a matter of budget because you cannot exercise a strong executive arm unless you have a strong control on the purse strings.

Numerous other references reflect an overarching preference and intention for creating a strong executive.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹ Victor Fischer, *Alaska’s Constitutional Convention* (University of Alaska Press, 1975), pp. 105-106.

² According to Gordon Harrison in *Alaska’s Constitution: A Citizen’s Guide*, 5th edition (Legislative Affairs Agency, 2012), p. 68, the requirement for a supermajority vote to override a veto is unusual among states. Likewise uncommon for the purposes of overrides are the requirement that the legislature vote as one body and the distinction between a bill dealing with substantive law and an appropriation bill.

³ Page references for the attached document do not coincide with the actual transcript pages, which began on January 11, 1956, with page 1737 and ended with page 1867.

ALASKA CONSTITUTIONAL CONVENTION

January 11, 1956

FIFTIETH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Gambell of the Pentecostal Holiness Church in Fairbanks. Reverend Gambell.

REVEREND GAMBELL: O God, we pray that we may hold our liberty in high esteem remembering how Thou has blest this nation. We thank Thee for this wonderful country in which we are privileged to live. Inspire our people to hold sacred this glorious heritage of freedom and rights. Keep us free from jealousy and free from strife within and from wars without. Bless, we pray Thee, each member of this Constitutional Convention. Give wisdom and strength for this great task which is nearing completion, recognizing Thy great Providence and guidance may we say "Hitherto the Lord hath led us." Give us peace through the Prince of Peace, for His sake. 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 the regular order of business. Mrs. Sweeney.

SWEENEY: Mr. President, I was wondering if it would not be in order to suggest each morning that as you introduce the minister, that the delegates might retain their seats so that we might have a clear introduction, not only for ourselves but for the record and not to rise until after the introduction.

PRESIDENT EGAN: Thank you very much. Does the special Committee to read the journal have a report to make at this time? Mr. Doogan.

DOOGAN: Journal for the 45th Convention day. Corrections on page 4, after the words "After Recess", insert the following paragraph: "Mr. Hellenthal asked unanimous consent to withdraw his amendment. There being no objection it was so ordered." With this inclusion in the journal I ask unanimous consent that the journal be approved.

PRESIDENT EGAN: You have heard the report of the special Committee to read the journal. Unanimous consent has been asked by Mr. Doogan to approve the journal. Is there objection? Hearing no objection, it is so ordered. At this time the Chair will refer Committee Proposal No. 7 to the Committee on Engrossment and Enrollment. It had been held over inasmuch as one delegate had served notice of reconsideration of his vote. The

reconsideration was not brought up by the particular delegate and at this time Committee Proposal No. 7 is referred to the Committee on Engrossment and Enrollment. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? If not, we are down to the unfinished business on our calendar which is Committee Proposal No. 5. Mrs. Hermann.

HERMANN: Mr. President, I was asleep I guess but I have a report on the Nome hearing that I wish to file.

PRESIDENT EGAN: If there is no objection, the report of the hearing will be filed. We have before us Committee Proposal No. 5, Section 15. Are there amendments to Section 15? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no amendments on the Clerk's desk, I have an amendment to Section 15.

PRESIDENT EGAN: Mr. Sundborg, you may offer your amendment. The Chief Clerk may read the proposed amendment as offered by Mr. Sundborg.

CHIEF CLERK: "Section 15, page 5, strike all of line 21 and the first two words on line 22 and insert in lieu thereof the words 'although vetoed'. Strike all of line 24 and 25 on page 5; lines 1, 2 and 3 on page 6 and the word 'entitled' on line 4 of page 6."

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

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

KILCHER: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Sundborg.

SUNDBORG: Mr. President, as the proposal has been reported to us by the Committee, it sets up two classes of legislation, one of which requires a two-thirds vote of the legislature to override a veto by the governor and another class which requires a three-fourths vote of the legislature to override the veto. My observation of legislatures, not only of the Alaska legislature, and I think of every session since the 1939 session, and of several other legislatures in action, that it is very rare that any bill, that the veto is overridden by the legislature anyway, and to make it necessary that a three-fourths vote of the legislature be obtained on certain classes of legislation would I think insure that those classes of legislation, once vetoed, would never be overridden by the body. So I believe we ought to stick to the uniform rule that it takes a two-thirds

rule of the legislature rather than a three-fourths vote in some cases. Now, the kinds of bills which would not be subject to overriding of veto by two-thirds vote would be all bills carrying appropriations, and I would say probably that maybe one-third of all the bills that have gone through the Alaska legislature do carry appropriations. It does not mean it would have to be a bill with nothing but appropriations, but it may be a bill setting up a new department, and at the very end of it, it says that an appropriation for so many thousands of dollars for the purposes of carrying out the purpose of this act. That whole bill would fall in the second class that the Committee sets up here and would require a three-fourths vote of the legislature to override the veto, any bill dealing with taxation or any bill affecting payments of money under existing statutes or an item or items in the general appropriations bill. I feel that we would avoid a great deal of confusion, and we would have a better and more workable constitution if we provided as the Alaska Organic Act has always provided. that the veto may be overridden by a two-thirds rather than three-fourths in some cases.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I have no objection to this motion to strike except for one thing. I think it is generally agreed that a provision for an item veto in appropriations bill is desirable and the further provision that reductions can be made as the need may arise because of lack of revenues. I don't know if Mr. Sundborg intends to follow this

amendment with another one making some provision. Some of us have been working on one. I don't think it is ready to present yet, but I intended to do it the second time around, but with that understanding I will support Mr. Sundborg's amendment. But I would not support it if the intention was to leave this big gap in the veto section. We discussed this in Finance and have left out any reference to an item vetoed in the finance section with the understanding that it would be inserted somewhere else.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The matter of whether a constitution is better or more workable in one fashion or other is strictly a matter of opinion. I do not agree with Mr. Sundborg's remarks in many respects. It appears to be the intention of this group, at least so far, if we can understand the discussions. that is that there is an intention for a strong executive arm. If I understand the fiscal reorganization of our government here as it took place in the last several years, there is quite a strong device in a budgeting fashion wherein the governor's arm will develop the budget for the state, and in presenting this budgeted item obviously the governor's office will have gone quite thoroughly into all the aspects of the budget for the state and consequently, having put in as much design as will be necessary

to develop not only the expenditures but the revenues necessary to meet them, we in the Committee felt that there was a necessity to require a greater number if the proposition of the house meeting in joint session were to stand, a greater number required to override the veto on money matters. Now, the fact that there are many, many bills as Mr. Sundborg says, that will be carrying appropriations, it is my opinion that as we get into our new state legislature that the chances of many bills carrying individual appropriations, as there has been in the past in the Alaska legislature, will not stand. That practice will probably be abolished and the bills carrying appropriations for new departments will come at once, and they will come either through the budgeting office from the governor or they will derive from the appropriations or finance committee of the house or senate, and will be considered in the light of the total revenues and the total of expenditures of the state, rather than in the hodgepodge fashion in the past. If it is the desire of Mr. Sundborg to make this a uniform veto overriding procedure, then of course he will have to abandon the idea that the veto will be considered by both houses of the session together. We feel that in supporting a strong executive arm it should require a greater number than two-thirds of the total number of legislators to override the governor's veto on a matter of budget because you cannot exercise a strong executive arm unless you have a strong control on the purse strings.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I also want to mention that I think that possibly under this act the appropriations bills will be handled separately under an appropriation bill. In fact, in Section 16 it says bills except for appropriations shall be confined to appropriations. Now, the effect of that will be that a lot of independent bills carrying appropriations will be merely passed as enabling acts and then later on the appropriations will all come in under appropriation bills, at which time it will be in a pattern similar to that handled in Congress. In the past there has been a great many bills that came in during the session which carried appropriations, and for that reason it was very hard to determine how much money had been authorized and committed and what money should then go into general appropriation bills against those that carried special appropriations. I favor this procedure and I favor also the three-fourths majority to override a veto in the matter of appropriations because we have now diluted the veto power on one hand and are trying to stiffen it in regard to moneys on the other. I want to point out here there is a great deal of difference between the power to tax and appropriate and spend money, and the power to legislate as our founding fathers found when they rebelled against the taxation procedures of the mother country which was at that time England, and they would permit and allow the legislation but they did fight and oppose the taxation, and so here again we have the distinction between the

power to tax and spend, as against the power to legislate, and I think the Committee has rightly adopted a provision in regard to the appropriation and spending of money which would allow somewhat more power to lie in the strong executive.

UNIDENTIFIED DELEGATE: Question.

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

BARR: I have an amendment on the Clerk's desk I would like to have read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Barr.

CHIEF CLERK: "Section 15, line 17, after the word 'Legislature' and the period, strike the rest of line 17 and all of lines 18, 19 and 20 except the last word 'Bills' and substitute the following: 'within five days after vetoing a bill, the governor shall return it to its house of origin for further action, and if passed by a two-thirds majority, it shall be transmitted to the other house for its consideration, and if like action is taken it shall become law.' Line 23, strike the words 'the state' and substitute the words 'each house'. Page 6, line 3, strike the words 'the state' and substitute the words 'each house'."

MCNEES: Point of order, Mr. President, I believe this action was taken last night. The verbiage only has been changed.

MCCUTCHEON: Mr. President, I submit that this is a close point of order. The only difference in the matter that has been submitted is the fact he has changed it from a period of being returned to five days. I submit it as a close point of order, but I challenge it on the basis of the fact that it is the material that has been considered.

PRESIDENT EGAN: It has close resemblance to another amendment, but as Mr. McCutcheon says there might be a point there that should be referred to the Rules Committee because of that one thing. The Chair just is not completely certain. Mr. Barr.

BARR: I do not remember the exact wording of Mr. Johnson's amendment but I believe that this one also specifies that it shall be returned to the house of origin. I believe that there are two points different in that.

PRESIDENT EGAN: The Chair will refer this question to the

Rules Committee. The Convention will be at ease. The Convention will come to order. Mr. Barr.

BARR: I believe the Rules Committee has a report to make first.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in the absence of the Chairman of the Rules Committee, I have presided, and I report on behalf of the Rules Committee that we believe that Mr. Barr's motion in effect is exactly the same motion that was made last night and defeated, and for that reason, although we recognize that it is a mighty close question, we consider that Mr. Barr's motion is out of order and that the point of order is well taken. We feel that Mr. Barr has another remedy which he can use if he so desires.

PRESIDENT EGAN: The ruling of the Rules Committee will be the ruling of the Chair.

BARR: I ask unanimous consent to withdraw my amendment.

PRESIDENT EGAN: Mr. Barr asks unanimous consent to withdraw his proposed amendment. Is there objection? If there is no objection, it is so ordered.

BARR: Now I would like to give notice that I will make a motion to rescind our action.

PRESIDENT EGAN: Mr. Barr serves notice that he will make a motion to rescind action.

DAVIS: I think, Mr. President, Mr. Barr ought to make it clear what action we are talking about.

BARR: To rescind our action on Mr. Johnson's amendment to Section 15 which we took last night.

PRESIDENT EGAN: Mr. Barr serves notice he is going to make a motion to rescind the action that was taken on the motion of Mr. Johnson with relation to Section 15. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I ask unanimous consent for the suspension of the rules so that I can make a motion.

PRESIDENT EGAN: What motion are you going to make, Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, I move that the Rules Committee be instructed to report out this evening at 7:30 any recommendations that they may have for the purposes of expediting proceedings of this Convention.

COOPER: I second the motion.

DAVIS: The Rules Committee is not ready and will not be ready by 7:30 this evening to make any such report.

PRESIDENT EGAN: The question is "Shall the rules be suspended and the Rules Committee be instructed to make recommendations as to how to expedite the proceedings of the Convention?" It is not debatable because it is a suspension of the rules.

HERMANN: Point of order. I think we have a rule that says any time we want to call out a report of the Committee you have to have 14 people, if I recollect, requesting it.

PRESIDENT EGAN: Of course, this request by Mr. McLaughlin, Mrs. Hermann, is in effect a suspension of the rules.

V. FISCHER: Point of information. Is such a motion amendable by Mr. McLaughlin to provide, instead of 7:30 tonight, to have it as soon as possible?

PRESIDENT EGAN: Mr. McLaughlin, the Chair will allow you to make a statement.

MCLAUGHLIN: I shall amend it with reluctance to read "as soon as possible" instead of "7:30 this evening".

BUCKALEW: I would like to ask Mr. McLaughlin to withdraw that. You know they are going to get it out as soon as possible. Why don't you withdraw it?

MCLAUGHLIN: I shall withdraw my motion and rely on the speed with which the Rules Committee produces recommendations.

PRESIDENT EGAN: Mr. McLaughlin, hearing no objection, your proposed motion has been withdrawn. Mr. Davis.

DAVIS: At this time I will announce a meeting of the Rules Committee for the morning recess.

PRESIDENT EGAN: There will be a meeting of the Rules Committee during the morning recess. Are there amendments to Section 15? Mrs. Nordale.

NORDALE: Mr. President, I have an amendment.

ARMSTRONG: May I suggest again that the Chairman of the Committee be asked to speak to this section and if there are to be amendments to it.

PRESIDENT EGAN: He has already spoken to this section.

ARMSTRONG: I am sorry. I thought it was 16.

CHIEF CLERK: "Section 15, line 20, after the word 'shall'

insert the word 'immediately'."

NORDALE: Mr. President, I ask unanimous consent, or I move that the amendment be adopted.

PRESIDENT EGAN: Mrs. Nordale moves the adoption of the proposed amendment. Is there a second?

METCALF: I second the motion.

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

CHIEF CLERK: "Section 15, line 20, after the word 'shall' insert the word 'immediately'."

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, my feeling is that I don't know that it is too important, but it seems to me that it is of enough importance to insert the word. If the bill should be considered immediately after the veto, then if the veto is sustained, there is an opportunity for those who still believe in the substance of the bill to introduce a revised bill incorporating such amendments as will coincide with the governor's attitude on the bill. Otherwise, it could be just delayed and not taken up in sufficient time to reconsider something that might be of value.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I address a question to Mrs. Nordale. Would you consent to the word "promptly instead of "immediately"? You don't know what the business is or what kind of jam they are going to be in for the next 24 hours.

NORDALE: I would consider that if the word would be interpreted reasonably, so that at the first possible recess the bill would be considered.

MCCUTCHEON: I don't see why we are heckling about one particular word. The house does not even have to receive the bill as far as the floor is concerned for some period of time. If there is a matter under consideration, it does not even come before it except if the president calls it up.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: There is something else here. This, as we have it here, maybe we are going to change it tomorrow. It says they are going to sit in joint session and you can't consider --

NORDALE: It says "immediately".

SUNDBORG: "The legislature sitting as one body shall immediately reconsider the passage of the bill." He returns it to the house of representatives together with his objections and the legislature sitting as one body and now it is proposed immediately to reconsider the passage of the bill. Would that mean that once the governor's veto message hits the clerk's desk in the house of representatives, that all business of both houses ceases at that moment and they go into joint session to immediately consider this matter?

NORDALE: Mr. President, rather than waste any time I withdraw the amendment. I think that almost every section of every constitution that talks about reconsidering a vetoed message says "immediately".

TAYLOR: I object.

PRESIDENT EGAN: Mr. Taylor objects to withdrawing. Mr. Taylor.

TAYLOR: I object to withdrawing. I think that word should be in there. I have seen the times in the legislature where there was an attempt after a bill had been vetoed by the governor, and it came back down to hold it so it could not come up for a hearing. It would be forced out and many times that happens. I think it should be "immediately" or some word which will denote the same meaning or say "within the following day", or "within 24 hours", but I think it is very imperative that we have this in here so when it goes back to the house of origin nobody in that house can sit on the bill and allow the veto to kill the bill. I object to withdrawing it and believe it should be voted on.

PRESIDENT EGAN: Objection is heard. The question is, "Shall the proposed amendment as offered by Mrs. Nordale be adopted by the Convention?" All those in favor of the adoption of 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:

Yea: 39 - Armstrong, Awes, Barr, Boswell, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Robertson, Stewart, Taylor, Walsh, Wien, Mr. President.

Nay: 12 - Buckalew, Cooper, Cross, Harris, Laws, Poulsen, Reader, Rosswog, Smith, Sundborg, Sweeney, White.

Absent: 4 - Coghill, McNealy, Riley, VanderLeest.)

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

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 15? If not, are there amendments to Section 16? Mr. Johnson.

JOHNSON: I have an amendment to Section 16.

PRESIDENT EGAN: Would the Chairman of the Committee then please present us with an explanation for the reasons for Section 16. Mr. McCutcheon.

MCCUTCHEON: There are several matters in this particular section. I wonder if we could have Mr. Johnson announce which particular matter he chooses to amend.

JOHNSON: Actually it is an addition, not an amendment.

PRESIDENT EGAN: We might have the Chief Clerk read the amendment first. Mr. Barr.

BARR: Has the Chairman of the Committee explained the section to us yet?

PRESIDENT EGAN: Not yet, but we thought it might be better to have the Chief Clerk read the proposed amendment.

CHIEF CLERK: "Section 16, line 22, after the period add the following: 'The enacting clause of each law shall be, 'Be it enacted by the legislature of the State of Alaska.' No bill shall become law unless it shall pass three readings in each house, on separate days.'"

JOHNSON: I move the adoption of the amendment.

ROBERTSON: I second the motion.

MCCUTCHEON: The first sentence of Section 16 provides that the legislature, like the United States Congress, shall set up the procedure for enactment of bills into law. It requires that a journal be kept and that the votes on the final passage of the act shall be entered into the journal. That part is included because a journal must be had in order that the court requires to search into the background of the law to seek its validity, they ascertain as to whether it legally passed. The theory of requiring that all bills be confined to one subject with certain exceptions here, as shown, is that nothing can be gotten through the legislature under the guise of some other things. Often times a bill that is very popular and has a great deal of public support and sentiment will have a rider attached to it which may defeat the very purpose of the bill or may pertain to some

other idea entirely, and the theory behind the requirement that each bill be confined to one subject indicates the thinking. Insofar as the matter of Mr. Johnson's addition here. there are only three states that do not include in their constitution the matter which Mr. Johnson seeks to insert into this article. The United States Constitution does not set up this procedure either but leaves it to Congress to establish the manner in which bills shall be enacted into law. We have here in one of our foregoing sections, if it is finally adopted, a statement that both houses of the legislature shall have uniform rules of procedure and in such instances we relied upon the fact that the legislature would follow a given pattern once adopted, they would follow that pattern of enactment and under that theory we felt that this material need not be included in the constitution, relying on the fact that the United States Congress did not use it and three other states did not use it. I don't think the Committee has any necessary objection to this type of amendment. It does not aid, in our opinion, it does not aid the article any, nor if included would it hurt it.

JOHNSON: Well, I believe the proposed amendment contains what I feel are minimum safeguards to be included in the constitution under the legislative section because if they are left out, and it is left up to the legislature to determine what or how a bill shall be passed and become law, or the method of procedure to be used in having a bill passed and become law, then it is conceivable that each legislature might change that rule and the courts then would be filled with cases construing the legality of various acts of the legislature, and you would not know from one session to the next just exactly what the procedure might be or was going to continue to be, so it seems to me that

as Mr. McCutcheon has pointed out, 45 states in the Union, and I know Hawaii includes it, and I have the Oregon Constitution and the Illinois Constitution, and they all include this type of language, and I see no reason why we should leave it out because I feel that we are going to save a great deal of trouble and legal action if we do put it in, and there will then be no question as to what procedure is to be followed for a law to be introduced in the legislature and passed and become a law of the state, and the interpretation of the method used in passing laws will be a settled matter.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I wonder if we could have the question divided. I don't want to do it against Mr. Johnson's desire, but I think we are dealing with two things. One is having an enacting clause in this section, the other one specifying readings, and I believe that we should consider them separately. It is up to you, Mr. Johnson.

BUCKALEW: That is what I was going to raise -- I just wanted to ask Mr. Johnson. I can't see any sense in putting in the

constitution that the state legislature shall caption their bills, "Be it enacted by the Legislature of the State of Alaska." I don't think it should be in the constitution, that portion.

V. RIVERS: Mr. President, I think that we have all agreed that we want flexibility in the constitution. This amendment, however, is one thing which I believe should give uniformity or would give uniformity if it is adopted to the methods by which bills are enacted and I favor such uniformity. I see no reason why the method should change from time to time, and it doubtless will unless we have such a clause. This is nothing there that would prohibit the enactment of any type of legislation, but the form and the approach and the handling would be uniform, and in this particular case I favor such uniformity.

MARSTON: May I ask Mr. Johnson a question?

PRESIDENT EGAN: You may. Mr. Marston.

MARSTON: If your amendment passes, would you not have to change the first two lines. "The legislature shall establish the procedure for enactment of bills," if your amendment passes?

JOHNSON: I don't think that would make any difference, this is just a minimum safeguard. There would still be other procedures that could be provided for.

SUNDBORG: May we hear it read?

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

CHIEF CLERK: "Section 16, line 22, after the period add the following: 'The enacting clause of each law shall be, 'Be it enacted by the legislature of the State of Alaska.' No bill shall become law unless it shall pass three readings in each house, on separate days.'"

SUNDBORG: There is something in that that I think is bad, and it is the provision that each reading must be on a separate day. Anyone who has served in the Alaska legislature or who has observed it, I think knows that probably 99 per cent of the bills that are considered there are advanced to third reading by a suspension of the rules of the house so that the third reading may immediately follow the second reading if there have been no amendments or if the amendments are well understood by the membership, which of course they are, because they have just been

talking about it. To require that the house has to get off that subject and go on to a new one and not take it up again until the following day, as between the second and third readings, I think is unnecessary and time-consuming and that it would in a sense cripple the operations of the legislature.

I don't know how many state constitutions contain that provision, that each reading must be on a separate day. If we write it into the constitution it would not be possible for a house of the legislature to suspend the constitution so as to advance a thing to third reading and vote on it the same day they have considered it in second reading or completed the second reading. I don't object at all to writing in some procedure into the constitution, but on that one point I think this procedure would be bad.

PRESIDENT EGAN: Mr. Sundborg, is it your pleasure to offer an amendment to the amendment in that respect?

SUNDBORG: I hadn't intended to, but I would be willing to if I could have a few minutes.

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

RECESS

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

SUNDBORG: Mr. President, I move to amend Mr. Johnson's amendment by striking the last three words in it, namely "on separate days".

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection?

JOHNSON: I object to the amendment.

MCCUTCHEON: I second the motion.

SUNDBORG: I have here the New Jersey Constitution which I think is a pretty good one, the last one revised. and its provision on this matter is as follows: All bills and joint resolutions shall be read three times in each house before final passage." Some state constitutions do say on separate days. I am afraid that if we leave in "on separate days" we are going to run into a lot of trouble. I know now for instance we would never get a general appropriation act passed if our experience in the state is what it has been in the Territory. A general appropriations act is always being considered in second reading right down to past midnight of the last day of the session. If it were impossible to suspend the rules of the house so as to advance it to third reading and final passage, the session would end and we would have no appropriation act.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to ask Mr. Sundborg a couple of questions.

He said that the general appropriations bill is carried right down to the last day of the house. What is going to be the last day in this new legislature we have set up?

SUNDBORG: It is a very good point which I had not considered.

LONDBORG: I was just wondering. The procedure of the legislature is actually new to me. I have not had the privilege of sitting in on many sessions. I don't see that it would cripple it, and to make it allowable for the suspension of the rules and ride it all through, I think by the time they get to the last day they should really be spread out over three days to do a serious thinking on the subject.

SUNDBORG: They do a lot of serious thinking, Mr. Londborg, even though it is a pro form of motion, really to suspend the rules and advance it to third reading and final passage. Everybody knows by then what he wants to do and to have to stop then and put it over to another day, I think adds nothing and takes up time.

V. RIVERS: Point of order. The New Jersey Constitution does contain the point which Mr. Sundborg brought up. It says, "No bill or joint resolution shall be read a third time in either house until the intervention of one full calendar day following the day of the second reading." So it says all bills and joint resolutions. So actually I believe that would have to be read in context here so this body could understand that they do have a one-day intervention between second and third reading in the New Jersey Constitution.

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

Yea: 24 - Awes, Barr, Buckalew, Collins, Cross, Doogan, Emberg, H. Fischer, Gray, Hilscher, Kilcher, McCutcheon, McNees, Marston, Nerland, Nolan, Nordale, Peratovich, R. Rivers, Smith, Sundborg, White, Wien, Mr. President.

Nay: 27 - Armstrong, Boswell, Cooper, Davis, V. Fischer, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McLaughlin, Metcalf, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Stewart, Sweeney, Taylor, Walsh.

Absent: 4 - Coghill, McNealy, Riley, VanderLeest.)

CHIEF CLERK: 24 yeas, 27 nays and 4 absent.

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

V. FISCHER: Now I hope, Mr. President, that we can defeat the amendment. I think that the rules can properly be drawn by the legislature. I think that if anybody bothers to look into some of the background material that has been prepared for us, other studies of the subject, they will find that the three-day rule for three separate readings are a carry-over of the time when legislators could not read and legislators had to listen to someone who was more educated read the bills to them. They had to be read three times so they could understand what was going on. The procedure should not be spelled out in the constitution because we don't have to protect our legislators. They can now study the bills themselves. They can establish whatever procedure is necessary and I don't think we should encumber the constitution with a thing like this reading business or the enacting clause.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to point out that I for one can read and I would like to take the model state constitution which goes even further than having to have a particular law or bill being read to me three times. It states that no bill shall

become a law unless it has been read on three different days and has been printed and upon the desk of the members in final form at least three legislative days prior to the final passage, and I think it would very possibly clean up and give us some good legislation if they knew exactly what was taking place at the last few minutes.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I will have to take exception to Mr. Fischer's remarks. If it is true, there must be a high degree of illiteracy in both Missouri and Hawaii because in the Missouri Constitution, which was just adopted a few years ago, every bill shall be read by title on three different days in each house. Now the Hawaiian Constitution, which was adopted by the people of Hawaii, but of course is not in effect yet, theirs says that no bill shall become law until it shall pass three readings in each house on separate days. Now that is either that the people want to be sure of their legislation, or they are extremely illiterate, and I think the fact is they wanted to be sure and know what they are passing.

ARMSTRONG: I believe there is something that needs to be added

- that sometimes the delay between second or third reading may be the entrance of public opinion into the persuasion of the legislators one way or another in the enactment of a bill. I am sure

at times even in our present status that the time that would be demanded between second and third reading could mean the persuasion of a vote one way or the other when the public opinion would enter into it. I believe we should give that right to the public, that expanse from the second day to the third day in these readings. I shall vote for the amendment.

MARSTON: That is exactly the reason I am going to vote against it, because it gives time to the lobbyists to get in there and do their work. On the basis of the previous speech I am going to vote against it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, the New Jersey Constitution has been quoted several times on this matter, and I would like to point out that there is a provision for a vote of three-fourths of the members suspending this particular thing so I think that it is bad to put it in the way it is without some sort of modification.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I think that the delegates are laboring under the feeling that you have to read the bill from beginning to end three different days, and there is nothing to preclude the legislature from establishing the system they have now. The bill is read the first day, the day it is introduced, and that is the title; the second time that it is read might be a week or two weeks or even a month later, and it is read section by section and amended. That is your second reading. You are certainly not going to cut that out. Then it is put up for third reading, and if you have to wait for the next day that is not going to hurt you any. It is read by title only. There is nothing in here that will prevent the legislature from adopting that same procedure. I think it is very important that we have plenty of time for the study of our bills and those who watched this last session I think will feel the same way. There is a tendency to speed things through, and I certainly go along with Mr. Armstrong that it is not going to hurt us to take a little extra time, and it is not as detrimental as some would make it sound.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to address a question to Mr. Johnson. In introducing this amendment, was it your intention that in using the word "read" that bills might be read by title and not in entirety?

JOHNSON: Oh, yes.

HELLENTHAL: I move for the usual 15-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes.

RECESS

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

NORDALE: Mr. President, I have an amendment to offer to Mr. Johnson's amendment.

PRESIDENT EGAN: Mrs. Nordale has an amendment to offer. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Add to Mr. Johnson's amendment: Strike the period, and add 'except that any bill may be advanced from second to third reading by a three-fourths majority of the house having the bill under consideration.'

NORDALE: Mr. President, I move that the amendment be adopted.

MCCUTCHEON: I second the motion.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

JOHNSON: I object.

NORDALE: Mr. President, I am offering this amendment because I feel that the legislature should have some means of avoiding the rigidity of the amendment as it was first proposed. This amendment, I would like to point out, will not rush the bill from first to second reading at all. The bill will have to be introduced and referred to a committee. But when it comes out on the floor, if it is a fairly routine matter and is not amended and is a thing that appears to have the obvious agreement of the house, I believe that it should be passed on to third reading on that day if three-fourths of the members of the house agree to it. It should be borne in mind that when one house finishes the bill it passes on to the second house which again goes through the same procedure. I think there is very little likelihood of any damage being done if this amendment is added to Mr. Johnson's amendment.

PRESIDENT EGAN: Mr. L ondborg.

LONDBORG: I don't know if that routine that they are so worried about is such a bad thing. I can certainly see where all precautions should be put right in the constitution to avoid any possibility of rushing things through. If something is of such trivial nature that it does not matter, if it practically skipped all readings, they ought to get it in early enough so they have successive days to work on it. If it is of such importance,

then there ought to be a limitation and at least give a person overnight time to think on it. Mr. Marston wants to go from second to third reading so the lobbyists don't have a chance to get a foot in there. We have already passed

over Section 11 while the legislature has the power to regulate lobbying. And then also, I would like to speak on a remark made by Mr. Fischer where we said that we are going back many, maybe a hundred years or whatever it was, to the days when the legislators could not read. According to our present proposal here, a legislator can be elected if he is a qualified elector, and let's not forget that we are allowing people to be qualified electors whether they can read or not.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I think the original purpose of Mr. Johnson's amendment will be destroyed in this amendment, if it goes through. The idea behind the whole thing as I understand it, or what it means to me is the fact that Mr. Johnson's amendment will prevent steamrolling anything through the legislature. It is only a matter of a day, but a matter of a day in public opinion can make a lot of difference. I would like to see the successive days kept due to our transportation, wire facilities, mail facilities in the future State of Alaska, it takes a little time sometimes for the public to know what is going on. I think they should have an opportunity of knowing what is going on.

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

STEWART: May we have it read please?

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

CHIEF CLERK: "Add to Mr. Johnson's amendment. Strike the period, add 'except that any bill may be advanced from second to third reading by a three-fourths majority of the house having the bill under consideration.'"

LONDBORG: Roll call.

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

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

Yea: 39 - Awes, Barr, Boswell, Buckalew, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratovich, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Taylor, White, Wien, Mr. President.

Nay: 13 - Armstrong, Coghill, Cross, Harris, Hurley, Johnson, Laws, Londborg, Poulsen, Reader, Stewart, Sweeney, Walsh.

Absent: 17 - Cooper, Riley, VanderLeest.)

CHIEF CLERK: 39 yeas, 13 nays and 3 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment to the amendment is ordered adopted. Mr. Fischer.

V. FISCHER: A number of people have said or implied I was talking before about the fact that some of our legislators can't read or that those in other states can't read. Nothing of the kind. All I was pointing out is that what we are

proposing now is a provision that may be traditional and that has been carried over from the days when legislators could not read. I would further like to point out that we have just gotten into a position where we adopted another rule to qualify a rule which was proposed in the amendment. That is exactly what we should get away from, tying the legislature down to certain rules. I would further like to point out that 13 states make no provision in their constitutions for reading of bills. But by rule, 11 of them require three readings, and the remaining states require two. The point is that just because we omit it here does not mean we will not have three readings of bills.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?"

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yea: 35 - Armstrong, Barr, Boswell, Coghill, Collins, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Lønborg, Metcalf, Nerland, Nolan, Nordale, Peratovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, Walsh, White, Mr. President.

Nay: 17 - Awes, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hinckel, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Sundborg, Wien.

Absent: 3 - Cooper, Riley, VanderLeest.)

AWES: I would like to change my vote to "no".

PRESIDENT EGAN: Miss Awes asks that her vote be changed from "yes" to "no".

CHIEF CLERK: 35 yeas, 17 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment to offer to this section.

PRESIDENT EGAN: Is it before us? The Chief Clerk may read the proposed amendment to Section 16.

CHIEF CLERK: "Section 16, line 16, delete first 'a' and insert 'an affirmative'."

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

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

V. FISCHER: I second the motion and ask unanimous consent.

TAYLOR: I object temporarily.

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

CHIEF CLERK: "Section 16, line 16, delete the first 'a' and insert 'an affirmative'."

TAYLOR: How will it read then?

PRESIDENT EGAN: The Chief Clerk will please read it as it would read if the proposed amendment is adopted.

CHIEF CLERK: "The legislature shall establish the procedure for enactment of bills into law. No bill shall become law without an affirmative vote of a majority of the membership of each house."

MCCUTCHEON: It seems to me that a motion could not be put in a negative fashion, so therefore it would have to be "an affirmative vote", would it not?

ROBERTSON: A vote is when you cast your vote, whether it is affirmative or negative. It is just simply to clarify it, that is all.

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

TAYLOR: I withdraw my objection.

PRESIDENT EGAN: Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Section 16? Mr. Metcalf.

METCALF: May I ask Mr. McCutcheon a question? Does "membership" mean a quorum present, or does it mean the entire membership of the house?

MCCUTCHEON: Entire membership of the house.

PRESIDENT EGAN: If there are no more amendments to Section 16, are there amendments to Section 17? Mr. White.

WHITE: Mr. President, may we return to Section 15 for a minute for an amendment which I do not think will be controversial?

PRESIDENT EGAN: Is there objection to returning to Section 15? Hearing no objection, Mr. White's amendment may be read by the Chief Clerk.

CHIEF CLERK: "Section 15, page 5, line 17, after the period insert the following sentence: 'The governor may veto appropriation bills by item, by striking or reducing specific appropriations.'"

WHITE: Mr. President, I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Is there objection?

TAYLOR: I object.

WHITE: I so move.

NERLAND: I second the motion.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, you might quarrel a bit with the language but I think it sets forth the idea clearly, and I am willing to have Style and Drafting work it around a little if they want to, but the idea is perfectly clear. This is

something that the Finance Committee, I am sure I can say, was unanimous on. It is something that I also understand the Executive Committee approved. At the time we discussed it in the Finance Committee, the Executive Committee had such a provision in their article. It was subsequently removed which we did not know about. I would only go on to say that in this section further down we recognize

the difference between general appropriation bills and other bills in that we make provision for passing such bills by item over the governor's veto. In line 1 on page 6, and in Section 16 we recognize the same difference in the sentence beginning on line 18, "Every bill except bills for appropriations shall be combined in one subject. The reverse of that obviously is that appropriation bills are not confined to one subject. Therefore, it seems only sensible and logical to recognize the fact that appropriation bills deal with necessity of a number of different subjects. So why not allow for an item veto and then allow for passage item by item.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think Mr. White's amendment is all right in one respect, but I don't believe in another respect that it is within the province of the governor to do so. I think he should be allowed to a right to veto an item in an appropriation bill, but I do not believe he should be entitled to the right to amend, because when he amends he usurps the prerogatives of the legislature, because the legislator is the only person who has the right to amendment of such. He could send it back, he could veto that and with a message of why he did veto it, and if it was amended to such and such figure then the legislature would possibly go along with it if you show good reason, but I don't think he should have the prerogatives of the legislature and amend an appropriation act.

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

SWEENEY: May we have it read?

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

CHIEF CLERK: (Section 15, page 5, line 17, after the period insert the following sentence: 'The governor may veto appropriation bills by item, by striking or reducing specific appropriations'."

PRESIDENT EGAN: All those in favor of the adoption of 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:

Yea: 30 - Armstrong, Awes, Boswell, Buck.alew, Doogan, V. Fischer, Harris, Hellenthal, Hinckel, Hurley, Johnson, Kilcher, Laws, Londborg, McLaughlin, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh,

White, Wien.

Nay: 22 - Barr, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, Gray, Hermann, Hilscher, King, Knight, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Peratovich, Sweeney, Taylor, Mr. President.

Absent: 3 - Cooper, Riley, VanderLeest.)

CHIEF CLERK: 30 yeas, 22 nays and 3 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Are there amendments to Section 17? Are there amendments to Section 18?

HURLEY: Mr. President, you have gone to Section 18?

PRESIDENT EGAN: Do you have an amendment to Section 17?

HURLEY: I would like to ask a question of the Chairman. I don't know as I read thoroughly enough this matter of an emergency clause. It says, "which emergency shall be expressed in the act". Now sometime before, I think it was on the initiative and referendum we were concerned with the same subject. As I recall the present system in the legislature, the wording is something to the effect that an emergency is hereby declared to exist, when in fact in my opinion in many cases no emergency should exist at all. Is it the intention of this particular paragraph that the full emergency shall be set forth, a very simple clause shall declare an emergency?

MCCUTCHEON: It was the intention of the Committee that the actual case of the emergency shall be cited in the act and it is an endeavor to get away from this pat phrase of "an emergency is hereby declared to exist" and where in effect no emergency actually exists. That is the thing we are trying to do, is to have the actual emergency recited in the bill so that it will stand for a true emergency and not just as a matter of course by the legislature.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Is it not true that the difference is, one is the emergency bill and the other one just simply an emergency clause, and in this instance it is the emergency bill?

TAYLOR: Mr. President, I can't follow Mr. McCutcheon on that because when a bill says "emergency is declared to exist", that by a declaration of the legislature is equivalent to saying something that actually does. Of course, you can follow the same reasoning of it. I know when I was in the army I used to take exception to the fact that the Congress by an

act would make a gentleman out of somebody because they pinned a bar on his shoulder. They made him a gentleman by an act of Congress. Why, the legislature can still declare an emergency by an act of the legislature. I think the mere declaration is all that would be sufficient even under this present bill.

R. RIVERS: I think that is the way it should be. The present Organic Act says that an act shall not become a law until 90 days after its passage and approval unless it becomes earlier effective by the legislature. Now our legislature has used an "emergency is hereby declared to exist" and it shall become effective immediately upon passage and approval. If we leave it the way it is the legislature can declare an emergency. If we make the 90 days mandatory all the way through, then the legislature has no power to say that the act shall become effective at any shorter time. I think the legislature should be able to fix the effective date of every act.

PRESIDENT EGAN: Are there amendments to Section 17, or Section 18? Are there amendments to Section 19?

V. RIVERS: I would like to ask a question on Section 18 of Mr. McCutcheon. The last sentence there gives me pause, and I wonder if in the case of an appropriation for some special type of building in a district like a school building, if it would then have to be submitted to a referendum before they could receive the money? It looks to me like we might be injecting a lot of local processes in there on things that would be beneficial to them, where I think the only thing they might be interested in voting on would be those things that might impose an additional burden on them

and they would want to measure the burden in relation to the benefits. I wanted to ask your opinion on the effects of that line.

NERLAND: Were you addressing your question to Mr. McCutcheon?

MCCUTCHEON: I will yield, Mr. Nerland.

NERLAND: It is my understanding that the Legislative Committee included several sections in their proposal until such time as they were sure they were covered by other proposals. Sections 19 and 20 are covered in the finance proposal. Section 19 is covered in Section 7 of the finance proposal and Section 20 is covered in Section 4 of the finance proposal, and the natural assumption is that the finance proposal would be the logical position for those sections, and I don't know whether -- I will yield to you, Mr. McCutcheon.

MCCUTCHEON: Mr. Nerland, did you say that Section 18 is also included in the finance proposal?

NERLAND: No. Section 19 and Section 20 are the ones I meant to refer to.

MCCUTCHEON: Well, in answer to Mr. Rivers, the intent of the Committee was that no special legislation should apply and that in the case there was some special necessity that it should be a matter of judicial determination whether or not some existing statute could not cover the particular matter. In the case you raised I think that judicial determination would be that inasmuch as a school house is needed at this particular point, that that could be built under a blanket law as it applies to construction of public buildings. I would assume that would be the case. This last sentence is designed for protection against any differential of taxation, I believe that was the intent of our Committee.

SUNDBORG: May I ask a question of Mr. McCutcheon.

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

SUNDBORG: Section 18, as I read it, permits local and special legislation rather than prohibits it. The title says "prohibited". What it says is that "The legislature shall pass no local or special acts in any case where general acts can be made applicable." What if a general act can't be made applicable. It would follow they could then pass local or special legislation.

MCCUTCHEON: That is true if the judiciary determined that no general law could apply, but in the event they did pass that special legislation, it would then have to be referred to referendum to the people of the area concerned.

SUNDBORG: I follow you. I think that is what the section says, but I don't think the content of the section is at all described by the title you have here.

MCCUTCHEON: I am sure that the Style and Drafting Committee could have some interest in the matter.

SUNDBORG: We will work on it.

SWEENEY: May I ask Mr. McCutcheon a question, please?

PRESIDENT EGAN: You may, Mrs. Sweeney.

SWEENEY: In Juneau the question was brought up by someone in the gallery concerning the matter "judicial determination". They wanted to know who made the judicial determination and when. and I was unable to answer the question. It appears that you mean our judiciary. I believe Mr. McKay answered from the gallery and said the bill would be passed if the legislature had a local or special bill in the hopper, they would pass it, and the judicial determination would be made afterwards. It would have to be tested.

MCCUTCHEON: I assume it would have to have some sort of an act prior to the time, otherwise there would be no determination.

SWEENEY: I understood you just now said the bill would pass through some judicial determination before it went into the legislative hopper.

MCCUTCHEON: If the legislature set up a procedure whereby the bill would be submitted for instance, to the justices of the court, I assume that would be the case.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. McCutcheon, is it not true that this Section 18 is a verbatim statement of the recommended section in the model state constitution except for a transitory matter that I assume is taken care of in our transitory provisions?

MCCUTCHEON: This was I believe lifted verbatim from some constitution. I don't at this minute have it under my fingertips.

HELLENTHAL: I have here the model state constitution, and it is verbatim with the model state constitution.

SWEENEY: May I have an answer as to who makes the judicial determination?

HELLENTHAL: The court.

SWEENEY: Our court after the bill has been enacted?

HELLENTHAL: Yes.

JOHNSON: Just a point of inquiry of the Chairman. Was it the Committee's intent when they included a section of this kind to generally prohibit the passage of local and special legislation? Do you believe that that objective is guaranteed by this section as it is presently written?

MCCUTCHEON: Unfortunately, not being an attorney I could not tell you.

TAYLOR: Mr. President, I believe there should be -

PRESIDENT EGAN: There is nothing before us.

TAYLOR: I am going to put something before us. I am going to move that the last sentence of Section 18 be stricken, and I ask unanimous consent.

ROBERTSON: I second it.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that the last sentence of Section 18 be stricken. Is there objection?

SMITH: I object.

TAYLOR: I so move. I would like to speak briefly. A local act of the legislature can consist of many things. It might be providing for the construction of a bridge in a particular area. It might be providing for a road maybe to connect two other roads or to give access and egress to a particular area, and they are too numerous to mention. Now, if the proper representation is made to the legislature that this bridge should be built or this access road should be built, or this or that should be done, that is strictly a local improvement, which the people of the district cannot do themselves, and if there is a sufficient showing as to the necessity of having this improvement put in, if the legislature then passes a bill maybe to provide some money and provide for the Road Commission or the Bureau of Public Roads or whoever is to do this work, I cannot see why there should be approval of a majority of the qualified voters of the area of the district to be affected. This is a little bit confusing or a little bit hard to understand as to what district. Now say we were going to build a short road or a small bridge that had to be built. Now where would you hold the vote? Would it be in the entire Fourth Division or the Third Division? Would it be in the precinct in which that improvement is made or would it be within half a mile of where the improvement is going to be put in? Or would it be a Territorial-wide vote as to whether or not you were going to build a bridge that maybe costs two or three thousand dollars or more? I cannot see any necessity for that last paragraph in there because after all when sufficient representation is made to the legislature, who are usually very reluctant to appropriate money or to authorize something that way unless a very good showing is made for the necessity of it. I cannot see why that should be in there. Now if the legislature passes the act, the people in that area can't nullify an act of the legislature. They can't repeal that act. Why would you have a vote?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise in support of Mr. Taylor's motion. I think that can only cause trouble.

SWEENEY: As I recall the Committee's thinking on it, we did not consider roads and bridges as being local or special. You could have a road and have everybody in the Territory have access to it or if it takes you off on to other places. What we had in mind were actually some rule or law for a certain group and they should not be forced to have a law without some approval. Is that right, Mr. McCutcheon?

MCCUTCHEON: Yes.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I would like to direct a question to Mr. McCutcheon. The way I take this to mean is that it would be for example if the legislature authorizes, for the sake of something better, they authorized by law that sewer districts could be set up and built and that they would be paid for by assessments in the local area; then in that case this would give the people in that area the right. Is that part of the thought?

MCCUTCHEON: That is part of the thought. They would have to support some special project themselves that they would have an opportunity to referendum. In answer to Mr. Taylor's argument, that particular question that he brought up would come under a matter of general law. The state would have the right to build roads and bridges. It would be the administration of the state highway department or department of public works or whatever to build the bridges here or there or elsewhere. The legislature would not specifically authorize a construction of a bridge

here. The money would be appropriated in a lump sum and because of their budget would have established these various projects.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I might mention here that under the local government article we have one section that covers legislative acts that should not become effective, that is increasing expenditures, unless approved by the local government. I think this section in the legislative article is much broader, but possibly ours could cover it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to ask Mr. McCutcheon one question. What was the Committee's understanding of a special act?

MCCUTCHEON: I think Mr. McNealy has made it very plain that to create a special act, to create a law to establish a certain district in this particular area, that is a special act applying only to this area, an area that must support this thing.

BUCKALEW: That is not my understanding of a special act. That is the reason I asked.

HINCKEL: I was on the Committee, and it was my understanding in the Committee regarding a special act that it would be something that benefited or pertained to a special group of people.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: In looking the sentence over which is sought to be stricken by the amendment, my opinion, for what it may be worth, is that the legislature could still provide for referendums on local measures as they passed them, and it occurs to me that the sentence as it occurs here could be construed much wider than that and cause some detrimental effect. I therefore feel that I shall vote for the amendment.

PRESIDENT EGAN: If the delegates will excuse me, Delegate Peratrovich will please take the Chair.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: I think that the sentence as stated in here in this general prohibition of local and special legislation is designed primarily to eliminate the abuses that have taken place in so many states where local and special legislation have taken place. A lot of those have been to the effect, for example, any city located on the Chena River may not license motor vehicles or any city located along such and such parallel must pave streets to a certain width. I am not making those up. If you go through the books you will find plenty of such statutes on the books in lots of states. I think that kind of statutes are to the detriment of the local population or of any group and should not be allowed, and if they have to take place, let the people vote on them. The same thing, if this is something of special benefit. I think that should be restricted, and I think we should leave this as it is.

FIRST VICE PRESIDENT: Mr. Londborg.

LONDBORG: I wonder if there could not be an amendment worked out so it would only be referred to them where it would involve a local budget. It seems like some are arguing for striking it because it just involves a lot of machinery thrown into gear when they already want the bill. I just suggest this.

FIRST VICE PRESIDENT: Mr. Taylor.

TAYLOR: Mr. President, in answering Mr. McCutcheon's attempted interpretation of this act, I say that the particular situation as cited by Mr. McNealy and concurred in by Mr. McCutcheon, like a sewer improvement districts in Alaska to the formation of them and their powers and their duties and their obligations. It is a general act they would come under, a general law to which all sewer improvement districts from Ketchikan to Point Barrow would have to follow, and as I see it here, that particular sentence in there is going to lead to hopeless confusion as to what is a local act unless it is spelled out. It is confusing and ambiguous and I don't believe in its present form, regardless of what the Committee was attempting to bring before this Convention, should pass until it is radically changed to give us a good idea about what it is all about.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: This is a hot potato, this whole matter of local and special legislation. If we wanted to take off on it, we could spend a week on this. There is no question as to what is a local or special act. They are both particular acts as opposed to general acts. One is a particular act based on localities. The other is a particular act based on specific persons or specific problems. Now the second sentence again is a matter of compromise. This was compromised in the model state constitution, wise compromise. The second sentence tends to prohibit the practice of back scratching, logrolling. In other words, you vote for my local act and I will vote for your local act, and this tends to restrict that practice, which is generally considered unhealthy. It puts it up to a majority of the people affected. There is nothing wrong with that. No abuses can be taken of that, and with that in view in this case I would certainly bow to the weight of the professors, you might say, and the students. of government.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: I rise once more. Mr. Victor Rivers pointed out that many special acts and most special acts are for the benefit of a particular locality in case of disaster or this or that, and I can't see making people vote on something that they want and that is for their own good. The legislature does not go around passing special acts and butting into local affairs anyway unless they are asked to, and so unless these referendums, unless modified, will be detrimental to their budget, this is not good.

FIRST VICE PRESIDENT: Mr. Barr.

BARR: There are several kinds of special acts. A special act may refer to a particular locality, and if it should be an emergency such as relief of suffering in certain sections, we would simply not want to have it go before the people before it is approved. It would be too late. There is another type of special act which is for the benefit of certain persons. I have seen several acts passed to reimburse a certain person in money he had put out of his own pocket for the benefit of the state. I don't believe that should go to referendum, but I do believe that it should be passed by a fairly large vote in each house to prevent its abuse, so I am in favor of striking this.

FIRST VICE PRESIDENT: Mr. McNealy.

MCNEALY: I still can't get away from the thought here, and I don't think it should be overlooked, that is, if the legislature passes a bill and authorizes, say sanitation district and the

state agrees that they will pay half of the cost if the community will pay the other half. Let's leave out boroughs of the first class, but we get over into a borough of a third class there or one that is not organized, and they say they have set up sanitation districts in the village and the state would pay half of the cost of setting up the sanitation

district, then I think these people in the village who are going to have to pay the other half, I think they should have the right to vote whether or not they want to pay the other half. Maybe some amendment or some little change is needed, but I believe that is the intent, and I don't think that the state should be able to come out and say, "You must form a district and you must pay for it here." If the people are going to have to pay for something within a district, they should have the right to vote on it, because it affects the taxpayers in that local area.

TAYLOR: I call for the previous question.

FIRST VICE PRESIDENT: Do I hear a second on that?

BARR: I second it.

FIRST VICE PRESIDENT: All in favor of ordering the previous question signify by saying "aye", all opposed "no". So ordered. Will the Secretary state the motion please.

CHIEF CLERK: "The last sentence of Section 18 be stricken."

FIRST VICE PRESIDENT: All those in favor of the question will say "aye", all contrary "no". The "noes" have it.

TAYLOR: Roll call.

FIRST VICE PRESIDENT: I have already made a ruling and it is the opinion of the Chair that the "noes" should have it.

TAYLOR: I appeal the ruling of the Chair.

FIRST VICE PRESIDENT: The question is now, "Shall the ruling of the Chair be sustained?"

BARR: Would the Chair tell me, the ruling is that you cannot call for a roll call after the vote is announced? What does that mean after it has been announced? If the call is made while it is being announced, while the President is in the middle of his sentence, has it been announced?

FIRST VICE PRESIDENT: The Chair would hold that is correct there. I think Mr. Taylor is perfectly in order in his appealing the decision of the Chair, so the question now is, "Shall the Chair be sustained in his ruling?"

TAYLOR: Roll call.

FIRST VICE PRESIDENT: The Secretary will call the roll on that please.

(The Chief Clerk called the roll at this time with the following result:

Yea: 43 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, White, Wien.

Nay: 5 - Boswell, Laws, Metcalf, Robertson, Taylor.

Absent: 6 - Cooper, Marston, Riley, Sundborg, VanderLeest, Mr. President.

Abstain: 1- Mr. Peratovich.)

CHIEF CLERK: 43 yeas, 5 nays, and 6 absent and 1 abstaining.

FIRST VICE PRESIDENT: So the Chair has been sustained in his ruling. Are there any further amendments to Section 18?

R. RIVERS: I have one.

FIRST VICE PRESIDENT: The Chief Clerk may read the amendment.

CHIEF CLERK: "Page 7, line 8, after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'."

FIRST VICE PRESIDENT: What is your pleasure, Mr. Rivers?

R. RIVERS: I move the adoption of that proposed amendment.

FIRST VICE PRESIDENT: Do I hear a second?

LONDBORG: I second the motion.

SWEENEY: May we have it read just once more?

CHIEF CLERK: "Page 7, line 8. after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'."

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: The purpose, Mr. President and members, that according

to the explanation of the Committee, the object of calling for a vote on a local act which affected the people in the local district was to protect them against having the state tell them that they had to put money of their own to match funds without having a referendum on these matching programs with the state. It is so broad now they would have to take a referendum as to whether they could accept a benefit from the state, and I know that's not our intention. Where it would affect the expenditure of local funds, then, of course.our thinking is that they should require a vote of the people in that local area, so what I have said here is that no local act involving appropriations of money by political subdivision, and that is the kind of area you are talking about, it is either a city or a borough, shall become the law without that referendum. I hope I made myself clear.

MCLAUGHLIN: Mr. Chairman, as I see the proposed amendment it does limit the ability to prohibit the legislature to make local laws affecting only appropriations and requiring that vote of approval. I have before me the Constitution of California which in Article 4, Section 25, prohibits certain special acts, and I think that perhaps we have forgotten some local acts that might vitally affect a community, affecting the fees or salary of any officers. That is prohibited in California, they detail it. In substance the legislature could pass a local act changing the fees of officers in one specific community without the approval of the community. They could provide for the management of common schools. The legislature theoretically then could provide for the management, direct manmanagement of certain common schools in an independent school district, let us say Fairbanks or Anchorage, changing county seats, in this case it would be borough seats, specifically saying in so and so borough that seat could be changed; providing for conducting elections or designating the places of voting except on organization of our counties. In other words, they could specifically provide the polling places without the approval of the local areas; regulating county and town ship

business or the election of county and township officers, specifically providing that in x, y, or z borough that the conduct of business should be such and such, as different from the stated laws; authorizing the laying out, the opening, altering, maintaining highways, roads, alleys, parks, cemeteries and graveyards, or public grounds. That could specifically apply to a local community. The legislature could without the consent of that community specifically provide for the laying out of the streets in the community. I think I express an opinion neither way, but I think the Convention should consider whether or not they are giving the legislature by indirection that express power to exercise all of those local powers without the consent of the local people vitally affected by it.

BUCKALEW: Mr. McLaughlin, is it your interpretation that the

way the Committee has drawn the act that it prohibits, as I understand it, the legislature from usurping any of the local discretion of any of the political subdivisions on any question, the way it is drawn now by the Committee, and Mr. Rivers' amendment would then have the effect of limiting it.

R. RIVERS: I was going to ask Mr. McLaughlin if what he said appeared to be in point with my amendment. My amendment would require voting only where it involved the expenditure of local funds and that would leave it open for the legislature to handle all these other things without the consent of the community. Do you support my amendment?

MCLAUGHLIN: I don't know yet. I merely pointed out what the effect of it would be.

R. RIVERS: The effect of this situation now is that they can't get by with any local law without a referendum.

MCLAUGHLIN: For your information, Local Government I believe in their proposal has a similar provision, somewhat similar to yours in the proposal that they withdrew from the floor.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: In explanation, the way it now stands, it is going to call for an election on every little thing affecting local government, such as Mr. McLaughlin just outlined for us, and he says that he possibly wants to see it reserved to the state, to pass certain local laws without making it necessary to go to the voters in the locality, and he just listed a whole lot of things that the states do in the way of local laws without having to take a referendum. The way the thing is set now it says no local act shall take effect until approved by the voters in the district. I am trying to limit it a little bit and say that no local act involving expenditures of local funds shall take effect until the voters in the district have approved it. You see what I mean.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Could it be that the good people of Juneau would have to approve the moving of the capital were that left to the legislature?

UNIDENTIFIED DELEGATE: Yes.

SUNDBORG: I move and ask unanimous consent that we recess until 1:30 p.m.

FIRST VICE PRESIDENT: If there is no objection, it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any communications?

CHIEF CLERK: Yes, a telegram from Delegate Bartlett. "Please allow me to congratulate the Convention for splendid wire to President. It constitutes temperate, yet eloquent presentation of aspirations of Alaska's people for statehood. I shall distribute it immediately and widely in accordance with your request."

PRESIDENT EGAN: It may be filed.

CHIEF CLERK: Letter from Gray Tilly, Commander of the Veterans of Foreign Wars, to all men of the Constitutional Convention, an invitation to a no-host dinner at the Travelers Inn, Saturday evening, January 14, 7:00 p.m.

PRESIDENT EGAN: The Chair would like to ask whether the word "men" also includes women. Mr. McLaughlin?

MCLAUGHLIN: Yes.

PRESIDENT EGAN: The communication will be filed. Mr. Kilcher.

KILCHER: Mr. President, I would like to draw the attention of the body here

PRESIDENT EGAN: Do you ask the floor on a question of personal privilege?

KILCHER: No, Mr. President, I think there is something that should be dealt with on the floor and also be part of the record. Our stenotypist isn't here by the way.

PRESIDENT EGAN: The stenotypist was having trouble with her machine . However, she will take the proceedings from the tape, I hope. Mr. Kilcher, if there is no objection, you may have the floor.

KILCHER: I am sorry that at this time something that has to be brought up that I hoped would not have to come before the body. I have here an issue of the Anchorage Daily Times of January 7, which in my opinion, contains a very bad example, a good example rather, of an irresponsible press, and I would like to know the opinion of this body what in such a case, could be done, if possibly we should not consider press representatives as lobbyists and as such, they should be possibly registered.

COOPER: Mr. President, a point of order. I don't know just exactly what my legal stand is on this, or any other stand that I might have, but I do feel that the delegate should be

on the floor on the standpoint of personal privilege.

PRESIDENT EGAN: The Chair asked if there was objection to him having the floor, and at that time there was no objection. Of course it is up to you.

COOPER: At that time, Mr. President, the issue was not clear.

HARRIS: I request a two-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher has the floor.

KILCHER: Mr. President, I ask for the floor on a point of personal privilege.

PRESIDENT EGAN: Mr. Kilcher asks for the floor on a point of personal privilege.

SUNDBORG: I ask unanimous consent that we permit the tape to run while Mr. Kilcher makes his forthcoming statement. I ask that the rules be suspended.

BARR: I object.

BUCKALEW: I'll second the motion.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: I move that we permit the tape to run while Mr. Kilcher makes his statement.

PRESIDENT EGAN: The question is, "Shall the tape be permitted to run while Mr. Kilcher makes his statement under a question of personal privilege?" The Chief Clerk will call the roll. The motion is not debatable, Mr. Barr, the motion to suspend the rules. The Chief Clerk will call the roll.

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

Yea: 34 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Emberg, Gray, Harris, Hinckel, Kilcher, King, Knight, Londborg, McLaughlin, McNealy, McNees, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nay: 17 - Barr, Cooper, Davis, H. Fischer, V. Fischer, Hellenthal, Hermann, Johnson, Laws, Lee, McCutcheon, Marston, Metcalf, Nolan, Poulsen, Reader, Robertson.

Absent: 4 - Hilscher, Hurley, Rosswog, VanderLeest.)

CHIEF CLERK: 34 yeas, 17 nays and 4 absent.

PRESIDENT EGAN: So the rules have been suspended and the tape will be permitted to run while Mr. Kilcher has the floor on point of personal privilege. Mr. Fischer.

V. FISCHER: Point of order. The suspension of the rules, if I am correct, requires 37 affirmative votes.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, if I'm not mistaken, there is no rule that requires suspension. This is simply a resolution and agreement that was adopted early in the session by the members. I don't think you will find anything in the rules that requires suspension on this point.

PRESIDENT EGAN: The Chair was under the impression that we had adopted a portion of the rules on this point. The Chair stands corrected. Mr. Barr.

BARR: If it's not a question of the suspension of the rules, then I demand to be heard on this.

PRESIDENT EGAN: Mr. Barr is entitled to be heard then.

MARSTON: May I have the same privilege then, Mr. President?

PRESIDENT EGAN: If you're recognized, Mr. Marston. Mr. Barr.

BARR: I'm not acquainted with all the details of what Mr. Kilcher is going to say, but I have some general knowledge of his complaint and I sympathize with him, but I don't believe that this body should take sides in any controversy, especially before we know that that controversy is, or what the complaint is. If any one person here feels that he has been maligned or libeled or what not, I believe that is up to him, and he can take such action as he sees fit. If the whole body were libeled, then that is a different matter, and I believe that he should be allowed the privilege of the floor to tell us what it is about, but it should not be publicized.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I want to explain my vote. I voted "no" because I wanted to know what the program matter was, I might be for it.

PRESIDENT EGAN: Mr. Kilcher, do you wish to answer that question?

KILCHER: Mr. President, I am sorry but I think I started out the wrong way in saying what I had to say. I had intended to read the short article in question and then let the delegates decide for themselves if I had a point. Mr. Barr, my saying here is to ask two or three committee chairmen questions that have to do with this. I don't intend to have the Convention sit in judgment about anything whatever. I intend to ask a couple of questions. This is the reason. On these answers, I would like to have on the record, that is all. I wanted substantial answers as to what happened in a committee, that is all, and I didn't want to argue the subject matter itself, neither did I intend to state my intentions, what I intend to do later.

MCLAUGHLIN: May I request a one-minute recess, Mr. President?

PRESIDENT EGAN: If there is no objection, we will stand at recess for one minute, but Mr. Kilcher has the floor.

RECESS

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

KILCHER: I don't intend to read the whole article in this paper because all of you are conversant with the subject matter. There is only one paragraph I would like to read and before I do that I will state here that it is not Mrs. Douthit who is responsible for this article as far as I understand. The paragraph in question reads as follows: "Thomas Harris of Valdez made a motion to restore the word 'Almighty' before the word 'God' as it was in the original proposal. Yule Kilcher of Homer, who has told friends he is an atheist, argued against it. He said the preamble without the word 'Almighty' is more acceptable to the various shades of religious belief. During committee sessions he had argued strongly against any mention of God." Now I would like to state here that I have not argued in any committee against the mention of God, and also, I have never told anybody, least of all any friends, that I am an atheist, which I am definitely not. Thank you. I will stand corrected by any of the committees or committee members, if what I said is wrong.

PRESIDENT EGAN: We have before us Section 18, and there is a pending amendment. The Chief Clerk will please read the proposed amendment at this time.

CHIEF CLERK: "Page 7, line 8, after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'."

UNIDENTIFIED DELEGATE: Question.

RILEY: Mr. President, this is just to serve notice that I will refrain from voting, not having heard any of the discussion.

PRESIDENT EGAN: The question is, "Shall the proposed 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 "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 18?

If not, are there amendments to Section 19? Mr. Nerland.

NERLAND: I move and ask unanimous consent that Section 19 be stricken and that the same subject matter be taken up when we arrive at the finance proposal under Section 7.

PRESIDENT EGAN: You have heard Mr. Nerland's unanimous consent request. Mr. Victor Rivers.

V. RIVERS: I have a question, Mr. President. Would you mind reading the Section 7 that you refer to?

NERLAND: Section 7 in the finance proposal reads as follows: "Taxation for public purpose. No tax shall be levied or appropriation of public money made or public property transferred, nor shall the public credit be used, except for a public purpose."

PRESIDENT EGAN: Is there objection to Mr. Nerland's unanimous consent request. If not, Section 19 is ordered deleted from this proposal. Are there amendments to Section 20? Mr. Nerland.

NERLAND: I will move and ask unanimous consent that Section 20 be stricken, and taken up in the finance proposal under the provisions of Section 1 and part of Section 4, and with the permission of the Chair, I will read those sections.

PRESIDENT EGAN: You may.

NERLAND: Section 1 of the finance proposal reads, "The power of taxation shall never be surrendered; and shall never be suspended or contracted away, except as provided herein." That is probably the specific part of the proposal that refers to the exact thing that the Legislative Committee had in mind, I believe. It is my understanding that their intention in Section 20 is to prohibit the remission or reduction or settlement at a lesser figure of any delinquent taxes or things of that nature, and it was certainly the intention of the Finance Committee that such things be prohibited by the first section when we said, "The power of taxation shall never be surrendered".

PRESIDENT EGAN: You have heard Mr. Nerland's unanimous consent

request. Is there objection?

HINCKEL: I object.

NERLAND: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Nerland so moves, Mr. Knight seconds the motion. Mr. Hinckel.

HINCKEL: I object merely for purpose of information. It doesn't seem to me that the section in the finance article covers the situation as completely as we intended to cover it in Section 20. It is quite possible when we come to his section in the finance article that we could amend his to cover all of these things, but of course I am not an attorney and maybe some of the attorneys here could state whether or not the simple verbiage as used in the taxation article does do all the things that we would do.

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

MCLAUGHLIN: Mr. Chairman and Mr. Hinckel, I think it does far more than you ever intended to do and I think it would be advisable in terms of time if we do, at the moment, delete it and then possibly you might want to add your amendments when it comes up on the hearing on the taxation proposal.

HINCKEL: I withdraw my objection.

PRESIDENT EGAN: The objection to the unanimous consent request has been withdrawn. Is there objection to Mr. Nerland's unanimous consent request that Section 20 be deleted from the proposal? Mr. Johnson.

JOHNSON: Just an inquiry, Mr. President. If we approve this unanimous consent request, will there be any foreclosing on the right to further amend the articles as they appear in the finance section?

PRESIDENT EGAN: Do you mean, for instance, would this same wording be used?

JOHNSON: Yes, or suppose that you wanted to add some words that now appear in Section 19, to Section 7?

PRESIDENT EGAN: As far as the Chair is concerned there would be no objection under the discussion that has been held here on the subject.

NERLAND: It certainly isn't our intention to exclude it.

PRESIDENT EGAN: If there is no objection then, Section 20 is ordered deleted from the proposal. Are there amendments to Section 21? Mr. Fischer.

V. FISCHER: I would like to request that the Chairman of the Committee explain the intent of the first sentence of the section.

PRESIDENT EGAN: Mr. McCutcheon, would you care to explain the intent of the section? Section 21.

MCCUTCHEON: The intent of that sentence in Section 21 is that in the event, for one reason or another, the legislature has had a bill under consideration, and the bill fails of passage, that the governor may take this bill, write into it any of the amendments that have been under consideration on the floor of either house of the legislature, and submit the bill, to referendum to the people to see whether or not they should make the bill into law.

V. FISCHER: May I address a question directly to Mr. McCutcheon?

PRESIDENT EGAN: You may.

V. FISCHER: It seems to me that this brings the governor very directly, and possibly too much so, into the legislative process. He can have one senator or one representative introduce a bill and even if he can't get two votes in the legislature, he can put the measure before the people. I have an amendment drawn up to authorize the governor -- I'll read it. "Any bill which passes one house of the legislature but fails to pass the other before the end of the session, may be submitted to referendum by order of the governor." Do you feel that something along those lines would be unreasonable to require passage by at least one house of the legislature?

MCCUTCHEON: The terminology is taken directly out of the model constitution. The point is that at the time our Committee was drafting this particular section, or considering it I should say, there was some doubt in my mind, and I think in the minds of others on our Committee, that there may not be an initiative device in the constitution. With the initiative device, this certainly may be stricken in toto. You do have initiative protection. This device was placed in the legislative article in the event that there was no initiative. It was a device that was designed to get good legislation out before public opinion to react on, but since there is an initiative device, the public can take any bill that is offered in the legislature and put it as an initiative measure.

V. FISCHER: With an initiative then, you don't think it would be too restrictive if there were a requirement that at least

one house of the legislature passed the measure before it could be put by the governor onto the ballot?

MCCUTCHEON: My observation is Mr. Fischer, that if you're going to fiddle with it, strike the whole sentence.

PRESIDENT EGAN: Are there amendments to Section 21? Mr. Gray.

GRAY: Taking Mr. McCutcheon's suggestion and word, that if this article is unnecessary, if it is already cured by initiative, why I'll make a motion to strike Section 21 because it is superfluous.

HELLENTHAL: I'll second the motion.

PRESIDENT EGAN: It has been moved and seconded that Section 21 be deleted from the proposal. The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment "will" signify by saying "aye", all opposed by saying "no". The ayes have it and the proposed amendment is ordered adopted. Section 21 is ordered stricken from the proposal. Are there amendments to Section 22?? Miss Awes.

AWES: Section 22 deals with freedom of religion which is a matter for the bill of rights. First I should say, I move that Section 22 be stricken and I ask unanimous consent. This is a matter for the bill of rights and it was taken care of in the bill of rights, so I think it is a dead issue.

MCCUTCHEON: I object. I would like to have the Chairman of the Bill of Rights Committee read the section of the bill of rights that covers this particular matter.

AWES: Section 5 of the bill of rights: "No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof."

PRESIDENT EGAN: Did you so move the deletion, Miss Awes?

AWES: I move the deletion and ask unanimous consent.

MCCUTCHEON: Mr. Chairman, I'll raise objection. It appears to me that the terminology of this section is better than the one in the bill of rights. I'll withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request of Miss Awes? Hearing no objection, it is so ordered and Section 22 has been stricken from the proposal. Are there amendments to Section 23? Mr. Smith.

SMITH: Mr. President. I move that Section 23 be stricken from this article and referred to the Committee on Ordinances and

Transitional Measures.

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mr. Smith moves, Mr. Hellenthal seconds the motion that Section 23 be deleted from this proposal and submitted to the Committee on Ordinances.

V. RIVERS: I don't like the word "stricken" Mr. President. In that case, I think "suspended for consideration" would be the proper terminology.

PRESIDENT EGAN: Mr. Victor Rivers, your exception is well

taken, and in this case, the word "stricken" should not be used. However, it has to be stricken from this, or deleted.

SMITH: Mr. President, I will defer to any amendment necessary to clear that matter up.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to make a brief statement on this. I don't know whether I would be out of order, but when this subject is considered at some later date, which I understand is the intent of the body, I would like to call attention to the very last statement of the section. It says, "Nothing in this section shall prevent this state from accepting any payments in lieu of taxes that may be authorized by the Congress." I know that some of the other articles that pertain to this subject do not say that and I think it is very important, and I asked that it be put in there and I would like to see it stay in there.

PRESIDENT EGAN: It has been moved and seconded that Section 23 be deleted from the proposal. Mr. Nerland.

NERLAND: Mr. President, I would like to make an amendment to the amendment. My amendment is that, line 8, "page 9 of Section 23, after the semicolon following "alienation the balance of the section be taken up under Section 5 of the Finance Committee proposal.

PRESIDENT EGAN: That sort of compounds the issue, Mr. Nerland. Inasmuch as one is asking to become an ordinance and one to go to a committee Mr. Gray, your point of order?

GRAY: I believe that as long as we're deleting the measure, any section is open to whatever group they want to pick up. If we just delete the measure, Mr. Nerland can pick up his half and Mr. Smith can pick up his half.

PRESIDENT EGAN: That is correct. You would not be precluded in offering any part of this section as an ordinance, nor would

Mr. Nerland, if he so desired later, be precluded from offering it as an amendment to some section in the finance article.

NERLAND: What I was particularly concerned about was that I assume that the finance proposal will come up before we consider any ordinance proposals.

PRESIDENT EGAN: That is correct. Mr. Smith.

SMITH: Mr. President, if I might say just another word, this is actually one of those requirements of the enabling act. This section is required to go into the constitution by the latest enabling act. If this wording had been taken verbatim from those enabling acts, and if I recall correctly, the Committee on Ordinances and Transitional Measures was the committee which was made responsible to see that all those requirements were met and that was the reason why I had moved that this be referred to that committee. Now I think this committee can take the matter up with any other committee, whether it be Finance, Style and Drafting, or any other committee, to determine what committee shall consider it and where it shall go.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in view of the fact that this language is required, at least under the present enabling act bill, and since we have agreed generally all along here that we would have to adopt that language as part of the constitution, it seems to me we might well consider it here and adopt it and then let Style and Drafting place it where it belongs in the constitution.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, we do have to consider this, that is true, but this section deals with two subjects. Now for instance, the latter half deals with taxation, purely with taxation, and the Taxation Committee has considered that question much more thoroughly than the Legislative Committee I would imagine, and I don't believe it has any connection with legislative matters other than to say they "shall not pass such and such a law". It seems to me that the Legislative Committee is supposed to plan a legislature and provide for the elections, terms of office, etc., and provide for the procedure perhaps, but when it comes to setting out specific laws they can make and cannot make and that sort of thing, and treating with these transitional measures, it seems to me they belong in other committees, it just wouldn't look right in here.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The only question before the house at this time

is, are we going to take this section out of the article or are we not. I would like to call the question if anybody is interested in voting on the subject.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: This article belongs right where it is, and I'll show you why it's necessary. This is a restriction upon the legislative power of the State of Alaska. The restrictive phrase might be in the wrong place, but if you will read down, it means that no legislative act by the State of Alaska shall be taken thereon. That means that they shall not attempt to tax the matter that Congress says they cannot tax. They have put in here something which the enabling act says we have to put in and what they are putting in there is a restraint upon a legislative act and so the legislative article

should be the one that contains that. I think if the Committee had taken this phrase, that the State of Alaska shall pass no act restricting these matters that touch in on this particular section, I don't think anybody here would have claimed that it was anything but a legislative act that belonged in here. It was just phrased wrong, because if it said the legislature can do this, why naturally they would assume and agree that it was a legislative act.

PRESIDENT EGAN: Miss Awes.

AWES: I agree with Mr. Taylor that this is a restriction upon the legislature, but I think probably two-thirds of the constitution poses restrictions upon the legislature. The purpose of this article is to organize, set up the structure of the legislature and set forth its functions and I think that, well for instance, the latter half of this deals with taxation and I think it can be much better viewed when you have the whole of taxation and finance before you.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, the phrase, "and no legislative act by the State of Alaska shall be taken thereon on lines 15 and 16 was put in by our Committee and not a portion out of the enabling act.

PRESIDENT EGAN: Mr. Cross.

CROSS: Mr. President, point of information. If we vote this language down here, can we adopt it later on less than a twothirds vote?

PRESIDENT EGAN: Later in some other proposal, yes, Mr. Cross. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to endorse the view of

Mr. Davis that whether this belongs here or not, it is language which Congress has said we shall have in our constitution. If that is true, why not consider it here. We are going to have to put it in anyway, and Style and Drafting is anyway going to arrange how things appear in the constitution. Let's get it over with and not refer it to some other committee. We have it in front of us and we have no choice but to adopt it.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I would like to say one more thing and it will be very short. This may be a matter for inclusion in the Legislative Article, but other constitutions insofar as I know have not handled it that way. They have, in fact, handled it as an ordinance. I have before me, four state constitutions containing almost identical language and in its entirety, it is handled as an ordinance.

PRESIDENT EGAN: The question is, "Shall Section 23 be deleted from this proposal and referred to the Committee on Ordinances?" All those in favor of adoption of the proposed amendment shall 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: 29 - Armstrong, Awes, Barr, Boswell, Buckalew, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hinckel, Hurley, King, Knight, Lee, McLaughlin, Nerland, Nolan, Poulsen, Reader, V. Rivers, Rosswog, Smith, Stewart, Sweeney, White, Wien, Mr. President.

Nays: 24 - Coghill, Collins, Cooper, Cross, Davis, H. Fischer, Hermann, Johnson, Kilcher, Laws, Londborg, McCutcheon, McNealy, McNees, Marston, Metcalf, Nordale, Peratovich, Riley, R. Rivers, Robertson, Sundborg, Taylor, Walsh.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 29 ayes, 24 nays and 2 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment is ordered adopted. Mr. Riley.

RILEY: Just in the interest of saving time, I would like to repeat a recommendation of the Rules Committee that was adopted the other evening and in connection with which I received only one committee question so far, and that is that all committee chairman, as they anticipate or foresee conflicts, notify the Rules Committee so that Rules in turn may recommend assignments to other committees so that the proper committee, in the event

of conflict and I think we might thereby save some time-consuming discussion on the floor.

PRESIDENT EGAN: Your point of information, Mr. McNealy.

MCNEALY: Through the Chair then, would it be permissible for the Committee on Ordinances to contact the Rules Committee with reference to transferring a portion of this to the Taxation and Finance Committee.

PRESIDENT EGAN: Mr. McNealy, actually, with what we have just done here, it probably would be in order that the Chairman of the Taxation Committee and the Chairman of the Ordinance Committee get together and decide how this will be brought up later, because we, in effect, with the adoption of this original amendment, carried Mr. Nerland's proposed amendment to the amendment with it and under this circumstance, why, if those two chairmen can get together and resolve the question as to when it will be brought up again, would solve the issue. Are there amendments to Section 24? Mr. Barr.

BARR: This is a short section and the language is the same as that in the Taxation Committee's report. Would it be in order to ask that that be referred to the Rules Committee to see which report it should be considered under?

PRESIDENT EGAN: If there is no objection. Mr. Riley.

RILEY: Mr. Chairman, without objection from members of the Rules Committee, I might state that that question has been referred to us by the Finance Committee, and, if I may presume to speak for the rest of the Rules Committee, I would feel it should be assigned to Finance and, without objection from the other members, I so recommend to the body that Section 24 be referred to Finance.

PRESIDENT EGAN: Deleted from this proposal and referred to Finance?

RILEY: Yes.

BARR: Is that a motion, Mr. Riley?

RILEY: Yes, I ask unanimous consent.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Section 24 be deleted from this proposal and assigned to the Finance Committee for consideration. Is there objection? Hearing no objection, it is so ordered. Section 25, are

there amendments to Section 25? Oh that was held over. Are there other amendments to Committee Proposal No. 5? The Chief Clerk will please read the proposed amendment that was held over.

CHIEF CLERK: This is Mr. V. Rivers' amendment. "Section 8, page 3, line 14, add the following at the end of the section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses adjourn the legislature, subject to the provisions of Section 9 hereof.'"

PRESIDENT EGAN: Was that particular amendment moved and seconded, was it moved and seconded that the amendment be adopted?

CHIEF CLERK: Yes it was.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, I discussed this at some length so unless there are some questions in regard to it, I will be glad to try and answer any questions. I think that I have covered the point that I feel it is necessary in the case of a continuing legislature without a set period of time for adjourning, that there should be such a clause in this section.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes have it and the proposed amendment is ordered adopted.

V. RIVERS: I have an amendment, Mr. President.

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

RILEY: Mr. President, are we going to start with Section 1 then and go right through?

PRESIDENT EGAN: I think it would be best if the Chair called for amendments to Section 1. Are there further amendments to Section 1? Section 2? Section 3? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 3, page 2, line 1, strike the words, '2 years' and insert in lieu thereof the following: 'four years, and one-half of the members shall be elected each two years.'"

V. RIVERS: Mr. President, I move and ask unanimous consent for the adoption of the amendment.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard to the unanimous consent request. Is there a second?

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Coghill seconds the motion. Mr. Victor Rivers.

V. RIVERS: I think that the matter of the amendment is self-evident to all the body. It would make the terms of the house four years, half of them would be elected every two years, and my basis of presenting this amendment is that I feel that the extra session, the extra two sessions that would come under this legislative group by the reason of

having four years would pay off in the value of the experience they receive and also I feel that there is too drastic a change in the two-party system when you have the one complete swing to the other complete swing. We've had two examples of it from 1953 to 1955 and whether we like it or not, the two-party system is an essential part of our government and I feel that a reasonably strong and vocal opposition, whether it be of either political faith, renders the output of general legislation better than if you have an absolute majority in one party and in both houses. It seems to me that it is essential to the operation of good two-party system of government that the opposition not always be changed en masse. I went through some of the legislatures in the states last February, Washington State, Oregon State and Utah State legislatures and I observed their rosters and they had their rosters prepared in such a way that you could tell how many terms they had had in the legislature and I found that the average of those states, that about one-third of them had been there from three to five sessions, another third had been there from one to two sessions and the other third was new. Now under those circumstances where they have a fairly politically mature group always sitting in both houses, you don't have the disadvantage of a drastic swing, but up here, we don't have a great tier of experienced legislators to draw from and it seems to me that if we could retain the value in the house of representatives of those first two sessions for another two sessions, that we have gained substantially in the stability of our governing body. For that reason, in all sincerity, I present this amendment.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to speak on this amendment just for a second. I'd be embarrassed to vote against it because nothing that has come out of this committee report has been adopted by the Convention and I think this particular section is all right and we have fiddled, as Mr. McCutcheon has said, with this proposal to where it doesn't look like anything that came out of the Committee anyway, and I'm just tired of fiddling with it.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I am not embarrassed in any way, shape or form about our committee proposal. We put in our work and if it is the desire of the body, and apparently it is, to hack away at it, they have done so. However, on the term of the members of the house of representatives, in being four years with half elected every two years, it was the unanimous decision in the Committee, and the understanding was that the house of representatives is the closest connected body to the people, most subjected to the will of the people in that they are elected every two years and that if the people desire this complete change which was mentioned, then it is their will, it is their right to express themselves to that extent. Inasmuch as the house of representatives will probably have somewhere in the number of 40, a good majority of the house will be as elected every two years, will be incumbents or certainly will be representatives that will have had some experience, so I don't think that is too much of an argument in favor of a four-year term. I believe the people have the right to electing their representatives, at least in one house, every two years in its entirety.

PRESIDENT EGAN: Mr. L ondborg.

LONDBORG: Mr. President, I can't help but favor the Committee's proposal here in this respect, except, maybe, for one point. It would prorate the campaign expenses over four years instead of two years to get in, but aside from that, it seems to me that they should be subject to recall by having to run for election if they don't prove out the first two years. We have heard so much said that the house is where they get started and mature and so on and so forth, and it seems that if they show signs that they are not going to mature and you see that after two sessions, now they'll be meeting every year instead of every other year. certainly they ought to stand for re-election after two years of perhaps, bad legislative work.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I stand in support of the amendment from the standpoint that it is in the best interest of the new State of Alaska, for which we are bringing about this legislature, and in effect, it would allow the house of representatives to have an organized group at all times. We wouldn't have the radical change. As a member of the 1953 legislature, I think there were only three members of that body that came back from the 1951 and the legislative group were pretty well uninformed as to procedures and practices and this would not allow a radical change to that point and it would allow the continuance of legislative practice, with the people getting a much better representation out of their representatives with this plan.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I believe this is an important subject. This is part of your basic law and we shouldn't take it lightly. This is distinctly the voice of the people. One reason you see this enormous change in the First Division is the voice of the people. That is the importance of the thing. Now the house has a shortage every year, due to two main reasons and you're going to get hooked with them. One is a person who has run and he has found out he is not interested in it, he doesn't want any more of it. You've heard it yourself, "I'll never be a part of the legislature again." Something due to his general attitude of living, some can keep away from that type of political organization, and so you have this man who doesn't want any part and parcel of the legislature. There is no way to get out, he has to serve four years. The other one that doesn't show up is the one that the people have turned down. And before you vote on this or accept it, I should say, serious consideration should be given and I should like to hear more debate on this subject.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President. I think one thing we shouldn't lose sight of and that is we are going to elect our governor. And when the sentiment changes from one party to another, the governor is going to be a part of the new administration. He is going to have half the senate left over who may be completely opposed to his policy. I don't believe he should be faced with the possibility of having half of the house of representatives also opposed to the policies that he wants to inaugurate when he comes into office.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, for what it may be worth, I note in 1950 that four states had four-year terms for their house members -- Alabama, Louisiana, Maryland, and Mississippi.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I agree with Mr. Gray that this subject is too important to pass over without making a comment or two, and this may be one of the very few amendments I will support. If I support it at all, it would only be for this purpose and I think every delegate here who has served in the legislature will agree with me on this point and that is that we have certain parliamentary rules and procedures that we are using here in the Convention but these rules here are practically child's play with the parliamentary procedures that go on in the legislature. When I went to the house of representatives, I thought with a good many years of background as an attorney and different organizations. I thought I knew something about parliamentary

rules and it took me with that background, and that advantage and having lobbied and having appeared before bodies over a good many years, both in Territorial and Federal Congress, it took me the first 40 days before I knew

what was going on there. They slid bills under me and through me and around me and I was in an awful mess. I voted for things that afterwards, towards the end of the session, I wondered how I ever got myself in that position that I got there, and it was simply on account of ignorance, and I might go a little further and say that during the full 60-day session that there were some that ended up at the end of 60 days that still didn't know what had gone on. This isn't foolishness. I believe that every member that has served in this Territorial legislature will agree that if you're reasonably fast on your feet you'll pick up something of what is going on in 30 days, and be able to more or less compete and get a bill through yourself once in a while, and I can see the advantage of this in gaining the experience. Now, we can put it this way, however, that the taxpayer invests a lot of money in this legislator going down there and spends a lot of money on him while he is there, then if he doesn't come back again, then that has been lost. If he chooses not to run or if the voters turn him down, why that is their prerogative. The only thing I can see under the bill as we have it here is at least he should be efficient the second year of his term.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am a little surprised at Mr. McNealy's comment on the last legislature. I was in the last legislature and I got the impression that Mr. McNealy had his feet on the ground the first two or three days. There might have been other causes, but I think he had his feet on the ground and knew what was going on. Now, I think it should be just like it is, because we have a two-party system and the people, as Mr. Coghill says turned them all out in 1953 and in the 1955 session, I think they turned them all out but one, but the party that was in has the responsibility for a legislative program. Now, you're going to have half of them held over from the preceding year, and even though the people come in and vote 20 members of the same party in, the holdovers are going to block any legislative program, and I think it's going to destroy the will of the people to express their desires through their elected legislators, because the people that they elect won't be able to carry out their legislative program because of the holdovers. Now, you've got enough holdovers in the senate to give some stability to the legislature. You've got a two-house system, and there is one more thing I want to point out. I think this is important somewhat, but I think it is overly stressed. I don't think this prior experience is as important as some of the old legislators will have you believe. Now, I can look around this

assembly and see people who have never served in the legislature and I can frankly admit that a lot of them are doing a lot better job than I am, and I have served in the legislature.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I feel impelled to call to the attention of the assembly here that our Territorial legislature as we have known it would permit a legislator to serve only one session in the house. He served a two-year period but chances are that he served only one session in the house in that term. Under the article as we have designed it here, there will be a session each year so that actually he will serve two sessions in a house, possibly more if there are special sessions, so that as we get into the legislature, we will find that a little different situation exists and that the density of legislators will be a little deeper after we get to be a state than it is right now, so I would say that, while the four-year amendment may have some merit, I don't think it is quite as important in our new state as it would have been under the Territory.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it appears to me that the situation in the state will be a little different in another respect, also. I think that in the past any violent fluctuations that we have had in the membership of our legislature have been in part attributable to reaction to national trend and reaction to the administration's prime attitude towards

Alaska. I think under statehood we will be much more concerned with our own affairs and that if the people will be inclined to turn out an entire house, it would be more in on the grounds that that house had not been conducting Alaska's affairs properly and so I am in favor of retaining the present committee proposal.

PRESIDENT .EGAN: Mr. Metcalf.

METCALF: May I ask Mr. McCutcheon a question?

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

METCALF: Isn't the term of the house of representatives in the national Congress two years?

MCCUTCHEON: Yes.

METCALF: It seems to me if you make this four years, you are taking something away from the people. I notice in the re-election of people to the city councils, half of them scarcely ever make the grade to be elected again, and they are elected on the basis of two years and it seems to me the proponents of the proposal for four years, if they want to help the poor legislators to handle themselves, they ought to set

up a school, a special school for legislators.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. Rivers has introduced this amendment through knowledge gained by experience in the legislature. I feel that the two years, or the two-year term is inadequate, as a person may only serve one term and might serve 30 days more under the state, but I have been in the legislature quite a bit and I think the men that have served only one 60-day term will know a great deal more of what it is all about when they get out of there than when they went in. I know I did when I first went in there. Now somebody says that if they don't do what they should, they are retired after one term, but maybe they went there in good faith, good conscience and tried to do what their constituents wanted them to do, but were unable to do it because they did not have the experience and know-how to wrangle a bill through the house. Now that's true and I think that anybody who has served in the legislature a few terms, can easily see that the new man is at a disadvantage, he is out-manuevered in parliamentary procedure and along about the end of the session, he might be getting on to the why's and wherefore's of these things, and when he goes back to his constituents after the legislature adjourns, the people want to know why didn't he get this bill passed. He'd said it was the first thing he would do. Well, he's got to give some specious excuse that blames somebody else, whereas the fact that he did not have the experience was the primary reason that he didn't get it through and get it favorable consideration. I think that Mr. Rivers is on the right track here and I think that the objections voiced by some that we should allow the people to do this or do that, but under our setup here, the people every two years will elect 20 representatives and 10 senators. And if a four-year term is good for a senator, why isn't it good for a representative? You need experience, you need stability, you need knowledge in the house, just the same as you do in the senate, because the senate passes bills sometimes and they are not infallible. We saw lots of bills come down from the senate that were poorly drafted, in no way express the intent of the maker and we would have to doll it up down in the house and send it back up there. So the brains of the legislature is not confined to what they call the "upper house" because I often times thought of it as the "lower house", and if you want to promote efficiency in the legislature, have men of experience, give them the four-year term just the same as before, but if you want to play politics, leave it the way it is. If you want an efficient state legislature, let's pass the amendment of Mr. Rivers.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Rivers a question?

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

AWES: Mr. Rivers, do you know how many of the states elect their representatives for four years?

V. RIVERS: Only four at this time.

AWES: Do you know which states they are?

V. RIVERS: Mississippi, Alabama, Louisiana and Maryland.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I address another question to Mr. Rivers? Do any of those states provide for annual sessions of the legislature?

V. RIVERS: That I can't answer without looking it up.

SUNDBORG: I am not as interested in efficiency as Mr. Taylor says he is. I think you could take the arguments by Mr. Taylor and by Mr. McNealy and carry them to their logical conclusion, that once you got a man elected to the legislature you could never remove him or give the people a crack at him. He gets more efficient every session. I think the whole basis of our democracy that we have to have men stand on their records and in one of the houses it is proper that he do it at every general election, that is every two years. We have a balance against that because in the senate we provide that the members have four-year terms. I oppose the amendment.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to say about Mr. Taylor's and Mr. McNealy's talk that if you take the talks where they should go they would go out on the campaign stump for re-election. Reelect a man because of his experience and let that be weighed by the people, the experience as to what he has done, give him a chance at the end of two years.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: As the introducer of the motion, I want to say a few words before we vote on it. My intent in introducing this motion was to try and see if we could not achieve greater stability based on longer experience in the lower as well as the upper house. Now if you realize, practically all of the appropriations in these bills, originate in the house, and I have seen in the last four years, two legislatures in which they did not have enough older, experienced heads available to constitute any more than one or two experienced members on the appropriations committee. Now they go in there entirely new, some of them very competent, professional men, business

men, men in other walks of life, while they can handle their own affairs very well, it is an entirely different situation than they have been previously faced with. Mr. Metcalf suggested that perhaps we should send them to school. I think that is a good idea, but they are actually in school in the legislative processes when they are in the legislature for the first one or two sessions and of course, I think that the men and the women who go there are generally quite mature and have gone a long way in the school of life or they would not be elected by the people who know them. That in itself is not enough. The broad general idea of theory must be backed up by a lot of practical application as

you are all finding out right here in this body. It seems to me we should consider that the stability in government is an important element, and I believe that because of the two-party system and only the two-party system in the United States, we have these extremely drastic swings. For instance, I do not believe that if we had seen somewhat different situation in World War II, we would have had L208 order that would have wiped out all of the gold mining completely and absolutely until the war was over. I believe that if we had had a little more experience in thinking and handling that, that probably we would have had an order which would have restricted materially gold mining, but would not completely wipe it out as it did, and as it now turns up, we have a very much diminished gold mining industry. However, those extremes bother me not only at the national level, but I think they would be equally improved if we handled them somewhat at the state level. It's not my thought here, and I might say.that I have heard the term that we are discussing this general thing and in trying to handle it in the democratic way resolved the opinions of all delegates, I have heard it referred to as "piddling . That is a very inelegant, and I don't think very expressive term. It seems to me to infringe upon the sincerity of the members of this body in trying to follow through and carry out the democratic process. I might say that in a general way I object to that word as you probably gather. However, I am trying to keep on with this process as I see what I think could possibly improve or better what we are trying to do. I am going to present my thinking, as I am only one citizen of this state and one member of this delegation. I don't expect it to have a great deal of influence but I want to present it for consideration and with that thought in mind I have presented this. I might say that I have talked to some members of the Committee who introduced this section and they did not indicate to me that they had too strong an issue involved. I don't want to misquote them but my implication and understanding from them was that it was not a highly controversial issue in committee and that their convictions on it were more or less subject to further discussion. For that reason also, I felt free in introducing this amendment. I hope, from my personal point of view and from my experience in observing these things, I hope the amendment carries.

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

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

Yea: 11 - Coghill, Cross, V. Fischer, Hermann, Hinckel, McNealy, Nolan, R. Rivers, V. Rivers, Taylor, Mr. President.

Nay: 42 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Peratovich, Poulsen, Reader, Riley, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 11 yeas, 42 nays and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask for the personal privilege.of the floor for just a moment.

PRESIDENT EGAN: If there is no objection, Mr. Rivers, you have the floor on personal privilege.

(Mr. Victor Rivers spoke on a point of personal privilege.)

PRESIDENT EGAN: The Convention will revert to the business of introduction of committee reports at this time. The Chief Clerk will please read the committee report.

CHIEF CLERK: "The Committee on the Executive Branch met on January 10 to consider Delegate Proposal No. 44. which would provide for the election of the Commissioner of Labor, and Delegate Proposal No. 45 which would provide for the election of the Attorney General. The Committee members in attendance at the meeting voted as follows on these proposals:

Delegate Proposal 44:

Do Pass: Delegate Barr

Do Not Pass: Delegates Boswell, Harris,

Nordale, and V. Rivers

Delegate Proposal 45 :

Do Pass: Delegate Barr

Do Not Pass: Delegates Boswell, Harris. and Nordale.

No Recommendation:

Delegate V. Rivers.

Executive Committee

Victor Rivers, Chairman"

PRESIDENT EGAN: The report will be filed. Are there other amendments? Are there other amendments to Section 3?

BARR: Mr. President, I have an amendment to Section 3.

PRESIDENT EGAN: Mr. Barr.

BARR: Is it our usual procedure to file these proposals or will they come up on the floor?

PRESIDENT EGAN: This was just a report.

BARR: I see. Isn't it the usual procedure for the Chair to assign it to the Rules Committee? What happens to the proposal now, in other words?

PRESIDENT EGAN: The reports indicated that the Committee had rejected the particular proposals. Now, as to the questions as to what happens to those particular proposals, the same thing would be that happened to other proposals that have been considered by the committees. I suppose the Committee felt that the subject matter had been covered adequately in other proposals. Of course. that is just what the Chair feels.

BARR: I will admit the fact that the subject matter of one of these was not discussed in Committee, that is it was the one part of a general subject that was discussed. The other one was discussed. It seems to me that the body ought

to have some right to express themselves on it. I admit they should give great weight to the committee recommendations but some cases the body might here take exception to reports, as they have done here this afternoon, in one or two cases.

PRESIDENT EGAN: It seems to the Chair that the Chair had no other alternative, Mr. Barr, than to order this report be filed in its entirety owing to the nature of the report. Mr. Riley.

RILEY: Is there anything before us?

PRESIDENT EGAN: There is nothing before us except that Mr. Barr questioned the manner in which the President handled this particular committee report.

RILEY: I think the Committee is free to report as it sees fit, but I think also that subject matter, whatever it may have been, might still be discussed on the floor via amendment when the time comes. I don't see that Mr. Barr has been foreclosed.

PRESIDENT EGAN: Mr. Riley, neither does the Chair. The Chair feels that in the consideration of the various proposals that have come out of all of the committees that wherever it might be proper to insert the subject matter, it would be proper to offer amendments at that time of course.

BARR: I see. I had assumed, I may be wrong, that all delegate proposals, if they were not incorporated in a committee report would be considered on the floor.

PRESIDENT EGAN: The Chair has assumed that the reasons for many or most of the amendments that we have had so far, is that in many instances, the committees did not include in their committee reports, the proposals exactly as the delegates had submitted them.

BARR: That's agreeable to me. I can always submit an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Sundborg.

CHIEF CLERK: "Section 3, page 1, line 17, delete 'fourth' and insert 'first'; line 18, delete 'January, unless otherwise provided by law' and insert 'December'."

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

V. FISCHER: I will second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion. Mr. Sundborg.

SUNDBORG: Mr. President, the purpose of the amendment is to provide that legislators' terms of office shall begin on the same day as the term of office of the governor as proposed in the article by the executive. The purpose of this is that there is no reason why a man elected by the people should not take office as soon after the election as it is possible to canvass the votes and certify the results, and that I presume is what the Executive Committee had in mind when they were setting a date for the governor to take office.

V. RIVERS: May I inject a thought here? I might say that Mr. Sundborg asked me this and I think he misunderstood my answer. I did not say the first of December, I said the first Monday in December.

SUNDBORG: That is what it now says. If my amendment is adopted it would say, "The terms of office shall begin on the

first Monday of the following December." That is, following the election. Now we have had occasions in this Territory where it became necessary following the early part of December and the time that a legislature would normally convene. that an emergency arises and you must have a special session. Then the question comes up, who do you call to the special session? Do you call these lame ducks" who have just been repudiated at the polls or do you call into session the new legislature which has been elected by the people? One of our governors, proceeding on the assumption and having been advised that he was correct by the attorney general, did call into session in the early part of January, the legislators who had been elected in the foregoing October, and some years after the session was held, there was a ruling by the District Court in Juneau that he had called the wrong bunch of legislators together. What he should have done, he should have called the bunch of fellows who had been elected more than two years before, who had been repudiated at the polls, almost without exception. I don't think there were very many overlapping in the membership of what those two bodies would have been, and that everything that had been done by the legislature which met in January, even though it consisted of legislators who had been elected in October, was illegal. So I don't think it matters too much when a legislator's term begins, because he doesn't begin to serve really until a legislature is called into session, but, since there is the possibility that a special session might be held some time before the fourth Monday in the following January, I think it is proper to get these legislators into office, to have their terms start as early as possible after the election and I suggest the same day as the governor. Now it doesn't mean that they are going to meet, they don't have to go to the capital city of Juneau at that time, all it. means is that their terms begin. We have also provided in here, I want to point out, we have provided an annual salary for all legislators. Are we going to continue to pay the annual salary of the people who have lost out at the polls clear up until the fourth Monday of the following January, or don't you want to put on the payroll the new fellows who had just had the endorsement by the people at an election?

PRESIDENT EGAN: Mr. Peratovich.

PERATROVICH: I want to direct a question to Mr. Sundborg.

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

PERATROVICH: I can see the advantage of this amendment, but I would like to clear one thing up in my mind. You say that if your amendment is adopted, it doesn't mean they necessarily have to go to a session, yet they'll be considered members of the body. Where will they qualify them, where will they take their oath, do they have to go to Juneau, or will the oaths be sent to them to insure them that they are members of the body?

SUNDBORG: I must say frankly, it is a question that did not occur to me. Mr. Rivers says he has an answer.

R. RIVERS: If I may help, after the canvassing board has certified the persons who are elected, that could be regarded as the body. If we fix the term, anybody who is certified by the canvassing board as having been elected, his term would start. I'll admit that he won't start rendering services until he is sworn in,'and you swear them in when they get to Juneau, but fixing the term is proper at any time after they are certified.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a question.

PRESIDENT EGAN: Mr. Peratovich hadn't finished his question. The Chair didn't realize that.

PERATROVICH: The fact that they had taken the oath would be sufficient grounds to be considered a member of the legislative body? The reason I ask that is because I know in the past, I think the attorney general swears them in, they take an oath before they can participate, and be considered qualified legislators.

R. RIVERS: Well, that is true of your administrative officers. They say that they shall qualify by taking an oath, but I looked into the law in several states, on when the terms of legislators begin and it is according to their organic law, or constitution, as the case may be. If their terms are to begin after they are certified by the canvassing board, then that is when their terms begins. Actually you swear them in when they go down to the capital and start performing their duties, but there is nothing to stop this, Mr. Peratrovich. You can say they have got to be sworn in, but if we don't say they have to be sworn in, they could go to the nearest justice of the peace and take their oath as far as that is concerned, but if we simply say that they may be members of the legislature from the time they are certified by the canvassing board to be elected, then if an extraordinary session comes along the newly elected group is the group that would go to the capital. not the old group.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: The reason I asked that question was that it implied there that you carry it out, I don't disagree, it is just through implication.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a couple of questions directed along the

same lines. Now 1 wonder, Mr. Sundborg, if you have accomplished your purpose. Is it not possible that a "lame duck" session could be held between election day and the first Monday. during those two months?

SUNDBORG: It is certainly true that it could, Mr. Hellenthal, but the reason, of course, that the man doesn't take off the day after the election is that it is impossible to find out what the results of the election are until a reasonable period thereafter.

HELLENTHAL: Wouldn't it be highly preferable then to tie it in, as Mr. Rivers deems to suggest, with the adoption of the canvass by the canvassing board?

SUNDBORG: I would have no objection to that. My purpose in offering this amendment is to get the legislators' terms of office to begin as soon as feasible after the election. If somebody can offer some language which would achieve that, which he feels is preferable to mine, I'd be willing to go along with it.

PRESIDENT EGAN Mr. White.

WHITE: Mr. President, I would like to ask a question of Mr. Sundborg.

PRESIDENT EGAN: You may, Mr. White.

WHITE: Mr. Sundborg, in the event this is adopted, who decides when each legislature shall meet in actual session?

SUNDBORG: It is provided in a later section of the article -- Section 8 -- "The legislature shall convene on the fourth Monday in January each year unless otherwise provided by law." It's in the constitution.

WHITE: You didn't want to change that?

SUNDBORG: No. I just wanted the terms to start earlier so that in the event there is the necessity for a special session we have the fresh bunch newly elected by the people.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I would like to call the attention of the body to Section 11, which we went over yesterday and nobody made any objection, at least to this particular language. In that section it says, "Each house shall be the judge of the elections and qualifications of its members.... Now if you had a person begin his term sometime before the house met, we are nullifying that provision. Now that provision that I have just read is common in legislative bodies, in fact it was

part of the law that created this body. None of us were actually elected until we met and agreed to accept the results of the election and seated the members.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to call attention, also, to the fact that there would be two months when we would have no Legislative Council. I don't know if that would make any difference to anyone, but it seems kind of odd to me.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me we are spending some time on a matter that isn't necessary. As a matter of fact, this could possibly be only just once that Mr. Sundborg's amendment would have effect because we have it written in here "or as provided by law". The legislature may change it back to this or to some other date. I don't see why we are hassling so much about just the first legislature.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: There is a point that occurs to me in this matter that I wonder if Mr. Sundborg has considered. For instance, if the term were to begin on the first Monday in December, the first session begins on the fourth Monday of the following January, and there would be another session beginning in the next year on the fourth Monday. Then by the first Monday of that December in the second year, the legislators' terms would expire. Now you've got a period from that time until the fourth Monday of the third year, who would you call in the event of a special session?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think that is clear under my amendment. If you recall, the group that would have been elected at the general election in that second year of which you speak. Now if we leave it the way it is and there is a necessity for a special session in December, the governor would have no choice but to call the group that had been elected two and one-half years earlier than that.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of 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 3? Mr. Londborg.

LONDBORG: This is just a point of information right now. Mr. Davis called up something and I would like to have it clarified a bit. If each house is the judge of its own election, I can see where there isn't a problem on that if you start paying them after they get there, but if you start on an annual salary basis, we are paying for two or three months, maybe they are disqualified down there. What happens to that money then? Actually we are starting a payment before they are certified as to their seat.

PRESIDENT EGAN: Mr. Davis.

DAVIS: If I may answer, as the thing stands now, they go into session the same time as their term begins.

LONDBORG: Mr. President, the term begins the fourth Monday, that would be the same time all right, I see it now.

PRESIDENT EGAN: Mr. Riley.

RILEY: I move and ask unanimous consent that we stand at recess for two minutes.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 3? Section 4? Section 5? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: By Mr. Emberg. "Section 5. line 8, delete word 'hold' and substitute 'be nominated, elected, or appointed to'."

EMBERG: I move the adoption of this amendment.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Emberg moves the adoption of the amendment, Mr. White seconds the motion. Mr. Emberg.

EMBERG: Mr. President, the reason I moved the adoption of this amendment is in regard to a possible conflict that may arise with the executive article in regard to the succession to the offices in case of vacancy of the secretary or governor, in which it would be expected that the president of the senate, the speaker of the house, would be in line of succession, and if during that legislature, the salary of either the secretary or the governor had been raised, you would be blocking that orderly process of succession.

PRESIDENT EGAN: Is there further discussion? Would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: The question is, "Shall the proposed amendment as proposed by Mr. Emberg 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 5? Mr. Robertson?

ROBERTSON: I would like to ask Mr. McCutcheon a question. On line 15 it seems to me that the words, "his services have" do not clearly express the meaning. I think it should be "his term has".

PRESIDENT EGAN: Your point of order, Miss Awes.

AWES: I am wondering if we're not getting into matters that belong to the Style and Drafting Committee.

MCCUTCHEON: Mr. President, I think Mr. Robertson is concerned with the thinking of the Committee, and I think I can say this with the unanimous point of view of the Committee that they are to be separated from their positions, period. No longer hold the job, no longer receive the pay or other emoluments. In other words, they are not connected with the state any longer, period.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Hurley's proposed amendment.

CHIEF CLERK: "Section 5, page 2, strike the second sentence."

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

PRESIDENT EGAN: Mr. Hurley moves the adoption of this amendment. Mr. McCutcheon.

MCCUTCHEON: Point of order, Mr. President. It seems to me that in our first amending session here that the same amendment was offered.

SUNDBORG: No, it was not offered.

MCCUTCHEON: I yield then.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. The motion is open for discussion. Mr. Hurley.

HURLEY: I certainly don't seek to create a wild campaign program on the part of elected officials, but I do, after having consulted with other people, recognize that the legislature will have the power to regulate such abuses of this thing as may occur. I do recognize that where we have a state executive that it is very desirable that we should have the ability to advance in the ranks and we also will have plenty of break between the time of filing for an election and the time that the election is actually held and the position be terminated, in which we might lose the services of a rather good governor, so the thought that I had here is that we might cure the ill as it occurs by the legislature and not prevent something good from happening.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask the Chair what the Chair's ruling was on the original point of order raised by Mr. McCutcheon.

PRESIDENT EGAN: The Chair didn't rule. The Chair felt that Mr. McCutcheon withdrew his point of order when he discussed the matter with Mr. Sundborg. That was the feeling of the Chair that in effect, he withdrew it. Mr. Riley.

RILEY: Mr. President, I agree with Mr. Hurley and support his amendment and agree with him in stating that my supporting his amendment is not the thought of throwing the gates open to abuses of the nature suggested in this sentence. I do feel that the matter can be solved by the legislature. We have seen in recent years such control exercised, but a great deal has been said here this afternoon of the value of experience in government. I believe, as I read this sentence, that if it is to remain in the constitution, we will deprive ourselves of what ever experience a great many people have gained in government. As Mr. Victor Rivers and others have stated this afternoon, the legislative process is educational to all who are so engaged. So, too, is other government service educational. The Territory and the State have an investment in a great many people who may be disposed to stay with the government and give the benefit of that education to whatever jurisdiction they serve and I feel we would freeze in place many many people, 60 members of your legislature, perhaps an equal number of administrators if they can seek no other place, no advancement, no other utilization of the experience they have gained in government. I recognize that there is every prospect of occasional abuse, but I do feel that that abuse can be curbed by the legislature and that we should not freeze the whole public service in place.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the intent of the Committee was to protect the public funds from political use, and if you will reread that sentence carefully, you will find that this was designed to insure the public funds not be used for public use for the purpose of furthering political office. If it is the will of this body to strike this out, I just want to point out that if the legislature doesn't act in this field, that your Legislative Branch Committee has sought to protect the public funds from political use and the furtherance of political office as has been done in the not too distant past in the Territory of Alaska. Strike it out if you wish, but we serve warning to you.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I move an amendment to the amendment, and that is to strike out the last sentence of Section 5 along with the second, or rather, last sentence of the paragraph. I move its adoption.

SUNDBORG: Mr. President, I object. I think that could be taken up in its place after we have disposed of this one.

PRESIDENT EGAN: There is no second to the motion.

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. Mr. Taylor has the floor.

TAYLOR: This sentence applies to the preceding sentence and if there is an amendment to strike that sentence both of them should go together because that sentence standing alone doesn't mean a thing.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I submit that that sentence applies not only to the sentence which we would strike under Mr. Hurley's amendment, but to the first sentence of the section, where it says, "No member of the legislature shall hold any other office which has been created etc., "while he was a member". Then it says down here, "This section shall not apply to positions of employment in or elections to any constitutional convention." I think it is necessary that it remain in there whether or not we strike out that middle sentence which Mr. Hurley would strike.

PRESIDENT EGAN: Mr. Riley.

RILEY: I have spoken once on this, but if there is no objection,

I would like to comment just briefly on Mr. McCutcheon's expression. I have every respect for the view of the Committee and for their intention, and I agree fully with Mr. McCutcheon that no doubt that thought was in their mind. I think that that too, may be curbed by the legislature, and within recent months the legislature has acted, in at least one instance, to correct such a situation. I submit though, that this goes far beyond what is necessary and it puts us in the position of sinking the ship to drown the rat.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: With the consent of my second, I'll withdraw the motion.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that his proposed amendment to the amendment be withdrawn. Is there objection? Hearing no objection it is ordered withdrawn. The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?"

MCNEES: Roll call, please.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yea: 26 - Armstrong, Awes, Barr, Boswell, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hurley, Johnson, King, Marston, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, White, Wien.

Nay: 26 - Buckalew, Coghill, Collins, Cooper, Davis, H. Fischer, Hellenthal, Hermann, Hinckel, Kilcher, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Peratrovich, Poulsen, Sweeney, Taylor, Walsh, Mr. President.

Absent: 3 - Hilscher, Rosswog, VanderLeest.)

COLLINS: I wish to change my vote to "no".

PRESIDENT EGAN: Mr. Collins wishes to change his vote to "no".

CHIEF CLERK: 26 yeas, 26 nays and 3 absent.

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

COGHILL: I notice in the gallery we have a member of the Territorial government, a man that we should all recognize and know. I would like at this time to introduce Mr. Don Dafoe, Commissioner of Education and ask unanimous consent that he be granted the privilege of the floor.

PRESIDENT EGAN: Mr. Dafoe, we are happy to have you with us and if there is no objection, you may come forward and make a few brief remarks if you so desire. (Applause).

MR. DAFOE: It is a privilege to be here and I appreciate the introduction and the privilege of the floor. I happen to be in Fairbanks on other business and took the opportunity to come out here. I had the opportunity of attending the hearings in Juneau and enjoyed participating in them and as far as my only personal viewpoints, I filed those in the

form of depositions in connection with the hearings. If there is any value that I could be to the Convention in the form of answering any questions or of any of the body or any committee member, I am glad to be of that service. Thank you.

PRESIDENT EGAN: Thank you, Mr. Dafoe. Mr. Buckalew.

BUCKALEW: I have an amendment, Mr. President.

CHIEF CLERK: "Section 5, line 14, insert 'nonregulatory' before 'board'."

BUCKALEW: Mr. President, I move its adoption. I don't know whether I did it right or not, but there was an amendment offered by Mr. Johnson which carried, and excepted members of boards. My amendment excepts members except those on regulatory boards, rate-fixing boards. I move its adoption.

V. RIVERS: I second the motion. I should like to ask a question. Would you consider the Board of Governors of the bar a regulatory or a nonregulatory board?

BUCKALEW: That would be a nonregulatory board.

V. RIVERS: Are you sure of the terminology "nonregulatory"? That is what concerns me, Mr. Buckalew.

BUCKALEW: Perhaps, just for discussion, maybe "rate-fixing" would be better. We will have boards under the state that will be fixing rates, and those are the people that will be running around for office and can use that office for terrific advantage. Maybe I should change it to "rate-fixing". That was what I was trying to reach.

V. RIVERS: Mr. President, if the mover of the motion has no objection, I would ask for the usual 15-minute recess now and we could discuss that a little further.

PRESIDENT EGAN: Are there committee announcements? Mr. Coghill.

COGHILL: With the understanding that we will have an evening session tonight, there will be a committee meeting of the Administration Committee upon recess.

RILEY: There will be a meeting of the Rules Committee in the rear of the gallery on recess.

SWEENEY: There will be a meeting of the Engrossment and Enrollment Committee at 6:45.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for 15 minutes.

RECESS

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

BARR: Mr. President, at this time, I would like to move that we rescind our action on Mr. Johnson's amendment to Section 15, which we considered as the last order of business last night.

PRESIDENT EGAN: Mr. Barr moves that the Convention rescind its action with relation to the amendment as offered by Mr. Johnson, which was the last action of the Convention last night.

BARR: I so move and ask unanimous consent.

RILEY: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Will the Chief Clerk please read the amendment as it was offered by Mr. Johnson.

CHIEF CLERK: "Section 15, page 5, line 19, strike the word 'the', then insert: 'Each house of the', strike the word 'as' at the end of line 19; line 20, strike the words 'one body', insert in lieu thereof the word 'separately'; line 23, strike the words 'the state' and insert in lieu thereof the words 'each house'; page 6, line 3, strike the words 'the state' and insert in lieu thereof the words 'each house'."

PRESIDENT EGAN: The question is, "Shall the Convention rescind its action as" regards the action taken on Mr. Johnson's proposed motion. A vote of "yes" means that you are voting to rescind the action. Mr. Buckalew.

BUCKALEW: We voted his amendment down didn't we?

PRESIDENT EGAN: The Chair recalls that it was a tie vote, 25-25. It lost. Mr. Londborg.

LONDBORG: Is this question debatable?

PRESIDENT EGAN: It is debatable. A motion to rescind is debatable. Mr. Barr.

BARR: Mr. President, my reasons for asking for us to rescind this action are these. There were two or three points that weren't brought out in debate and I don't think that we had time to consider it. It is a very important question. It was lost by a tie vote which means that half of us here were for it, and it was done as the last order of business, the last thing we considered last night after a long day of work and some of us were a little weary and some of us were, perhaps, a little hasty, so I thought we should have the opportunity to think this over again.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I have also thought the thing over and the time that was taken, and even now, I certainly am willing to abide by the decision regardless of how small it is in this matter, because there are a lot of things I don't know about it. I did make an effort to find out some more about it, however, and I recall the question was asked of Mr. McCutcheon, if any other states had this provision and he said, "Yes," paraphrasing Mr. McCutcheon, Nebraska", which was of course highly amusing since they had to have it, they only had a one-house legislature, but my thinking behind the thing was that we are presumably, we have assumed this, we are going to set up a rather strong executive department and my thought was in that case that perhaps it would be wise to make the overriding of a veto a little more simple procedure and I thought that this procedure did do that, and that was probably the only reason. Now, on investigating the situation in other states, I do find that 15 of the states provide for the overriding of a governor's veto in each of the houses of the legislature by less than a two-thirds majority. Seven of them provide for a simple majority of each house and eight of them provide for two-thirds majority of those present at the time the vote is taken, so that means to me that at least 15 of the states have chosen to make it a little simpler to override the veto than to have two-thirds of each of the houses. That information tended to at least strengthen my position, however tenable it may be that it will be a little easier, at any rate, to override the veto, so I think I shall vote, perhaps, against rescinding our action.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I don't think I spoke on this yesterday, but I don't like to see this committee article changed because if you do change it or rescind the action, the governor and six senators can control the action regarding the passage of bills.

KILCHER: Point of order, Mr. President.

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

KILCHER: I think if the motion to rescind the action should prevail, that does not mean that the section as it stands will be changed. The amendment will be in order then, or any other amendment might be in order then, is that correct?

PRESIDENT EGAN: The amendment of Mr. Johnson's will then be before us, because we are rescinding the action taken, which was the vote on the particular amendment. Mr. Hinckel is in order in speaking on this motion to rescind. The motion to rescind does not pass the amendment, this brings it before us. Mr. Riley.

RILEY: Mr. President, it is certainly debatable, however.

PRESIDENT EGAN: That is right, and Mr. Hinckel is in order.

HINCKEL: Well, the point I am trying to make is that as we on the Committee submitted the article, we were trying to prevent this thing happening as I started to describe, the governor with six senators could override the passage of a bill and we felt that as it came back after the veto and the whole 60 legislators discussed the thing and decided that it should be passed, that the people of the state would get a better shake and probably get a truer representation than they would by permitting five or six people to control something that was that important.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to point out that this manner of considering the governor's veto now becomes more important than it was before because we have taken out the automatic referendum clauses by striking that one section that pertained to either the governor or the legislature passing lost bills at referendum. So it becomes now more important that the governor's veto shall be considered in the two houses combined because it would make it easier for the legislature to control the action of the veto.

PRESIDENT EGAN: Mr. Lodborg.

LONDBORG: I can see Mr. Hinckel's argument that six could do it mathematically, but I think that is just the thing. After all, a veto should be relatively strong, and if we do it the other way with the combined house and senate then we are going to leave it up to largely the house to control the overriding of the veto and I think it has been argued time in and time out that the house, according to the way it is set up, the lesser house and it is the more inexperienced, etc., and I think that

such action should be passed on by the senate as it has been done before by two-thirds of each house. I can't see that we can do it any other way if we are going to uphold our bicameral form of government but to rescind our action.

RILEY: Mr. President, as Mr. Hurley just suggested, a strong executive article is in prospect, at least a strong executive has been provided in the article which has been presented by the Committee, and from what discussion I have heard I think it will be the consensus of this Convention that we emerge with a strong executive article. I

believe in a strong executive, but certainly not in a runaway executive and certainly, too, I believe in our traditional form of coordinate branch amongst our three branches. I think if we are to have a coordinate branch as between legislative and executive, we must have a legislature that can be effectual. Mr. Cooper was speaking in an argument earlier this afternoon about the legislature's being the most responsive to the people because it was the most recently elected, it was the people's most recent expression as to whom they wish to have performing their necessary functions of government. I think that if the legislature is to have coordinate rank and authority with the executive, that it would be very improper to allow a handful of men to thwart any action that the majority, the overwhelming majority might prefer. All of us in Alaska and all of us here, I think, remember when this problem was even more acute, when we had only eight members in the senate. In fact, I can see at least one person here who served in that eight-member senate and I am sure he and others appreciate full well what I am trying to point up; at a time when three members of the senate could force the will of the entire legislature, or three members of the senate with the governor, if they happen to be his supporters, could pretty well run the show. Now under our existing legislature of 16 it requires six in the senate and should we adopt 20 for the state, it would require only seven, which would mean that seven men of a total of 60 in the legislature as proposed, would have the whip hand on any tough decision, or the ones that a responsible executive feels are clearly against the public interest, which receive the veto treatment, but any seven men under the proposal we have adopted as to the composition of the legislature can overcome the views of the 60; and I think it is academic that if you believe in the democratic process, that that is not right. Now, we discussed here a few weeks ago, this matter of the unicameral system versus the bicameral system and there is no question about how the body felt at that time, but it was pointed out there that there was very little to fear from lobbyists, for example, because there . never was a time when lobbyists seem to exert their influence over both houses at the same time, so that doesn't begin to touch on the real problem here. I think one of the most effective lobbyists in recent history is known to most of the people here, a very low-pressure type of lobbyist, one who I don't

believe has ever outraged anyone's sensibilities. Following the 1953 session -- I was not a member but I was in the corridors of the closing evening, I spoke to him in the hall and he appeared to be very well pleased with the way things were going. I inquired as to what he had accomplished and he said, "I haven't accomplished a thing, I wasn't seeking a thing, but there were 14 measures that I did not wish to have passed." He hadn't introduced a thing and he said he was very well pleased. There had been a number of vetoes sent down in that session and most of those vetoes had been overridden, and I submit that if we feel that a democratic process is being observed in sending a legislature down there, that a mere handful should not be allowed to control the operations of the entire body and I expect to vote against the rescinding of last night's action.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: By the same token, it seems to me that we ought to retain this type of check if only seven people can do it, as Mr. Riley seems to think. I believe that is equally as valuable a break upon a runaway legislature as anything else could be. That was the purpose of the founding fathers when they set up our form of government. They put one house as a check against the other in the matter of passing legislation and certainly we're not deviating from that in the matter of the amendment that has been offered. I see no reason to fear any seven people in the senate anymore than I would have reason to fear the other 53, and believe me, the only way that we're going to have any check and balance in favor of a minority, which is just as much a democratic process as favoring the majority, then we ought to vote to rescind our action and place this amendment in the article.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I've heard the expression, "founding fathers" many times in this assembly, and I am quite well convinced that if our founding fathers could have seen to what extent our checks and balances had backfired and if our founding fathers could observe what has happened to Alaska over the years, as a result of what Mr. Riley has been talking about, I am sure that our founding fathers would vote overwhelmingly for this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: It is even worse than Mr. Riley says, because we have the provision in our constitution here, which was supported by the majority of the body this morning, which provides that a three-fourths vote is necessary on all bills having to do with taxes, all bills having to do with appropriations or monies. In that event if we are going to leave it that it requires a three-fourths vote of each house, as Mr. Johnson

would require, any five members of the senate, if we have a 20-member senate can thwart the will of the other 55 members. There is another thing that hasn't been mentioned here and that is that it takes the affirmative vote of three-fourths of the members to which the body is entitled, to override a veto. In other words, every man who is absent, every member who may have died during the course of a session, everybody who is sick in bed, his vote counts "no". In the senate you would need 15 affirmative votes and you would have to have them all there in order to carry through the will of the legislature against the veto of the governor. I believe it is bad and I believe the provision that the Committee has written in here is the proper one, so I am going to vote against rescinding.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I think that if they really wanted to change this system, rather than to go into a body of the whole, they could have changed the percentage for overriding the governor's veto. If they want, they could have changed it to a majority vote in the house and a majority vote in the senate, but I still believe that they should be separate, a vote in the house and a vote in the senate, as check and balance. And I am going to vote to rescind our action.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to say a few words on this. I was one of those last night who voted for the amendment and I intend to vote to rescind our action on this ground, that we have in the governor, the highest elected official, the most directly answerable to the people of all the officers of our government, including the legislature. Now we have set up here, in the matter of overriding his veto, a unicameral type of action which is very much in the thinking of many of our people and I personally don't see too much wrong with it except we are now diluting, as the Chairman of the Legislative Committee stated to you, the authority of our strong executive but I can't share the fears of some of the people that he is going to abuse that privilege. It has not been the case in the past. I was a member of some of the eight-house senate sessions in the legislature and in the two terms that I served, there were no veto messages that came down from the governor at that time. There was no abuse of it then. Now if we are going to sustain the strong executive, if we are going to make him responsible and answerable for his administration to the state as we have visualized it necessary for a modern and efficient government, it is my opinion that we must, in cases of real crisis, allow him enough authority to function, and in the case of these bills that have already been passed through to him, I want to point out to you that they have already been passed by a majority of both houses, so you already have the 11 in the senate and perhaps the 21 in the house that have gone on

record as favoring the bill, then if after he vetoes it, they take the opposition position that his strong stand on this matter is not in the best interest of the people, then they can override his veto but by a two-thirds majority of each house. It seems to me that each house should consider this matter separately as they considered it in the original

instance. I do believe if we are going to sustain and maintain a strong executive in these crucial decisions, the real critical decisions of the administration, then we must support the fairly strong veto, which would be the bicameral veto such as we have in the legislative action. It doesn't seem to me that the feeling that the governor is going to abuse this and veto everything down the line of minor interest, just for the purpose of overriding the legislature, applies. These are times of extreme and critical emergency only. Then the question is, whose final judgment in the matter of such emergency should prevail, and I favor the executive. I favor the veto power based on the two houses separately.

PRESIDENT EGAN: The Chair would like to state that if you vote "yes" on this motion to rescind, we will then have Mr. Johnson's proposed amendment before us for discussion once more and it will take 28 votes to pass this rescinding motion at this time. Mr. Barr.

BARR: Mr. President, I would like to close if no one else wishes to speak. I think the question here is whether we favor the unicameral or the bicameral system. According to the committee report where they meet in joint session to consider a veto, that is a unicameral process. Now, if we believe in a system of checks and balances and a two-house system, where a bill originates in one house and then passes on to the other house for its action, we should naturally give those houses a chance to reconsider that same bill separately. It was stated here that it would be a simple procedure to override the veto of the governor under this joint session and that was the purpose of it. It is, it is a simple procedure but it works both ways. It depends on whether your party is in power in the house or whether they are out of power because the house has complete control. Do you want them to do something or do you want them to prevent something from being done? Now under this joint session system where the house, we will assume, has 40 members and the senate 20, the house has complete control of the entire legislature. Is that our wish here? If a bill originates in the senate and goes to the other house and then is transmitted to the governor and he vetoes it, the senate has no say in overriding that veto. It goes into joint session and if the house is for it, O.K., if they're against it, O.K., their will is done right there. I do not think that is right in a two-house system. I wish to remind you, too, that the house being elected most recently at the same time as the governor, is more likely as it has been said here, to reflect the wishes of the people. In other words, if there has been a landslide, the governor

certainly has complete control in that case, in spite of anything anyone can do. I don't think that is good no matter what party he belongs to. I believe it should be considered in both houses which can look at these things objectively. may like it the way it is one time but the next time we won't. Now, as to not submitting these things to the people on a referendum, it can always be done. The governor may not be able to do it directly, but we have provisions for initiative and referendum and if the governor's veto is sustained it can be submitted to the people. If it is overridden, it doesn't have to be. The term, "runaway executive" was used here. I claim that that could happen with the aid of the house, and the senate would have no power to put the brakes on the runaway executive. They would sit silently by and listen to the house go just the way the governor wanted it to. I do not object to having, say a three-fourths vote for overriding the governor's veto. I believe that is the way it should be settled, but we should not abandon the two-house system and the system of checks and balances.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think there is something more important than this question right here -- that of finishing this constitution. I am frankly worried about the time slipping by, the work ahead of us. When we go back after we have made a thorough decision, we have voted, and then you come back and put it on the floor again, I think you are jeopardizing the entire constitution, and I am going to vote against this.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I would like to point out to Mr. Marston here that the reason that I brought this up today was to avoid delay. I tried to give this body every consideration in that I would like to allow them to reconsider it because it was a tie vote and taken at a late hour and I also considered them in bringing it up today instead of holding this over for another 24 hours as I could have done.

PRESIDENT EGAN: The question is, "Should the Convention rescind its action with relation to the vote taken last night on Mr. Johnson's proposed amendment?" The Chief Clerk will call the roll.

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

Yea: 27 - Armstrong, Barr, Boswell, Coghill, Collins, Cross, Gray, Harris, Johnson, Kilcher, King, Knight, Laws, Lønborg, Nerland, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sweeney, Walsh, White, Wien, Mr. President.

Nay: 25 - Awes, Buckalew, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hinckel, Hurley, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratovich, Riley, Smith, Sundborg, Taylor.

Absent: 3 - Hilscher, Rosswog, VanderLeest.)

CHIEF CLERK: 27 yeas, 25 nays and 3 absent.

PRESIDENT EGAN: And so the "nays" have it and the proposed rescinding action has failed to pass. Are there other amendments to Section 4? Mr. Sundborg.

SUNDBORG: I have an amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I voted on the prevailing side on Mr. Hurley's motion as to Section 5. I think I made a mistake and I now give notice of reconsideration.

PRESIDENT EGAN: Mr. Davis gives notice of reconsideration of his vote on the particular amendment that sought to delete the sentence from Section 5 beginning on line 13 and ending on line 17. Mr. Sundborg.

SUNDBORG: May I address an inquiry to Mr. Davis?

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

SUNDBORG: Mr. Davis would you object to having the matter of your reconsideration taken up at this time?

DAVIS: No, I would not.

SUNDBORG: Mr. President, I move that we suspend our rules so we can take up Mr. Davis's announced motion of reconsideration with respect to Section 5, at this time.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended and that the Convention take up Mr. Davis's proposed reconsideration of the amendment at this time. Is there a second to the motion?

SUNDBORG: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

JOHNSON: I object.

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Objection is heard. Mr. Taylor seconds the motion. The question is, "Shall the rules be suspended and Mr. Davis's reconsideration come before the Convention at this time?" The Chief Clerk will call the roll.

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

Yea: 47 - Armstrong, Awes. Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross. Davis, Doogan, Emberg, H. Fischer, V. Fischer. Gray, Harris, Hellenthal, Hermann, Hurley, King, Knight, Londborg, McCutcheon, McLaughlin, McNealy, McNees. Marston, Metcalf. Nerland, Nolan, Nordale, Peratovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nay: 5 - Hinckel, Johnson, Kilcher, Laws, Lee.

Absent: 3 - Hilscher, Rosswog, VanderLeest.)

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: And so the "yeas" have it and we have before us Mr. Davis's reconsideration of his vote on the proposed amendment. Mr. Davis.

DAVIS: Mr. Chairman, I think nearly everything has been said on this thing that could be said.

BARR: Point of order, Mr. Chairman, is the motion to reconsider debatable?

PRESIDENT EGAN: The motion to reconsider, to order the reconsideration at this time passed and the amendment is debatable at this time. Mr. Davis.

DAVIS: I think everything that could be said has been said about this, so I am not going to speak at any great length, except to say we apparently had a tie vote and my vote was pivotal on it and I am of the opinion that we have covered too much ground in saying that no elective or appointive official of the state should be entitled to run for office without resigning his present office.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment. Someone asked what the amendment was.

CHIEF CLERK: "Page two, Section 5, strike the second sentence."

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

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

Yea: Armstrong, Awes, Boswell, Buckalew, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hurley, King, Knight, McLaughlin, Marston, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh, White, Wien.

Nay: 24 - Barr, Coghill, Collins, Cooper, Cross, H. Fischer, Hellenthal, Hinckel, Johnson, Kilcher, Laws, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nerland, Nolan, Peratovich, Reader, Sweeney, Taylor, Mr. President.

Absent: 2 - Hilscher, VanderLeest.)

DAVIS: Mr. President, I wish to change my vote to "yes".

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

CHIEF CLERK: 29 yeas, 24 nays, and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 5? If not, are there amendments to Section 6? Section 7? Mr. Robertson.

ROBERTSON: In Section 6, on line 24, I would like to ask Mr. McCutcheon why the word "treason" was omitted before the word "felony". Is it the theory that treason is a felony?

MCCUTCHEON: Yes.

PRESIDENT EGAN: Are there any amendments to Section 7? Section 8? Section 9? Mr. Robertson.

ROBERTSON: Yesterday a question was directed to Mr. McCutcheon as to the word "directed" in line 17, and whether or not he would be agreeable to having the word changed to "administered" as I recall it.

PRESIDENT EGAN: It was changed to some other word, "conducted" I believe. Section 10, are there amendments to Section 10? Are there other amendments to Section 11? To Section 12?

MCLAUGHLIN: I would like to withdraw the amendment that I submitted yesterday and submit another in lieu thereof.

PRESIDENT EGAN: If there is no objection, Mr. McLaughlin's amendment of yesterday is ordered withdrawn. Have you drawn

your amendment yet, Mr. McLaughlin?

MCLAUGHLIN: I know exactly what I want, if I may read it.

PRESIDENT EGAN: Perhaps we can continue until you have it prepared. Mr. Hellenthal did you have an amendment to submit to Section 13. did you say?

HELLENTHAL: No.

PRESIDENT EGAN: Mr. Riley.

RILEY: This is just a point of inquiry. I had thought the Committee .was considering an amendment to the first sentence of Section 11. I know we've gone past it, and my only query is, is it practicable for the two houses to have

identical or uniform rules of procedure? I shall address that to Mr. McCutcheon, if I may, as to whether further consideration was given to simply stating they should have uniform rules insofar as practicable or language to that effect. They certainly aren't identical today and I don't know if that is his purpose.

MCCUTCHEON: Obviously there will be on some matters that they couldn't be identical, but insofar as they could possibly have them identical, it was the intention of the Committee that they should be identical.

RILEY: Then it was your thought, Mr. McCutcheon, that as the language stands, uniformity but not identical? You had no thoughts that this language would suggest that they should be the same rules?

MCCUTCHEON: The reason that the next sentence was established in this part of the act was to give them the out of establishing different fashions in setting up the context of their employee groups and so forth, but the matter of handling the procedure of the bills in the course of their processes, and the transmission shall be identical. That is what we intended.

RILEY: Simply those matters where their actions touch on one another?

MCCUTCHEON: Yes.

RILEY: That satisfies my query. Thank you.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't feel quite that strong about that. My interpretation of this first sentence is that the rules governing the house, shall be the same rules governing the senate. Now you have a difference in interpretation of rules simply because they are not exactly the same and I think it is very

important that the rules under which the house is operating are the same as the rules that the senate is operating. The second part of that sentence gives the house or the senate leeway as far as their help and the boiler room and things like that, but for operation of the legislature, the houses should have uniform rules and that was what my interpretation of it was when we wrote it out.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I was on this Committee. One reason that that first sentence is in here is because inasmuch as the two houses are throw1 in joint assembly in several instances throughout the Legislative Committee report, it was thought this was a very necessary item in Section 11.

PRESIDENT EGAN: Does Mr. McLaughlin have his amendment before us at this time?

CHIEF CLERK: Yes.

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

CHIEF CLERK: "Section 12, line 17, strike the words 'and in what court' and in line 18 strike the words 'or agencies thereof'." The section then reads, "The legislature shall direct by law in what manner suits may be brought against the state."

MCLAUGHLIN: I so move the adoption of the amendment.

TAYLOR: I second the motion.

SUNDBORG: Now being able to understand this, I ask for unanimous consent.

R. RIVERS: I object.

PRESIDENT EGAN: Objection is heard. Mr. Ralph Rivers.

R. RIVERS: Mr. President, perhaps we can straighten this out. Mr. McLaughlin you have said the legislature shall direct the manner in which suits may be brought against the state? Doesn't the legislature also decide what liabilities the state will assume or what actions, when the state will be sued as well as the manner?

MCLAUGHLIN: I leave that up -- it was my understanding, Mr. Rivers, from the Committee that they wanted to direct that the sovereign state could be sued and that the legislature couldn't prevent it. It is my understanding that they can place a limitation on the liability. I am not changing, I'm sure, the meaning, but I am removing an apparent or apparent at least to

some, conflict with the judiciary article. The amendment that I submitted the other night was unacceptable to many members, but this overcomes most of their objections.

R. RIVERS: I was thinking that the way it is now written it leaves the state open to be sued at all times and I didn't know the body had arrived at the idea of letting the state be sued at all times.

MCLAUGHLIN: That was the intent as I understand it, of the Committee, who originally drafted this article.

R. RIVERS: I withdraw my objections.

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

BOSWELL: What were the words to be struck there in the amendment?

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment again?

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: Is there objection at this time to the unanimous consent request? If not, the proposed amendment is ordered adopted. Are there amendments to Section 13? Section 14? Section 15?

SUNDBORG: Mr. President, I have an amendment to Section 15.

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

CHIEF CLERK: "Section 15, page 5, line 18 after the word 'it' insert 'within five days (Sundays excepted) after it is delivered to him'."

SUNDBORG: Mr. President, I move the adoption of the proposed amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Just exactly, according to the words that you have suggested, Mr. Sundborg, does that read now? Will the Chief Clerk read it as it would read with the amendment.

CHIEF CLERK: "If the governor vetoes a bill he shall return it within five days (Sundays excepted) after it is delivered to him to the house of representatives together with his objections."

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, as the article stands, there is no limit on the time within which the governor must return a bill to the legislature if he is vetoing it. There is no time limit that he must return a veto message. It is true that over on the next page and in the same section, there are provisions that while the legislature is in session, "If the governor neither signs nor vetoes a bill within fifteen days (Sundays excepted) after it is delivered to him it shall become law without his signature." There is a further provision that, "If the legislature is not in session and the governor neither signs nor vetoes a bill within twenty days" it shall become law as if he had signed it. Now I want to insure that the legislature will have the right, right down to the fifth day before the end of their session, to override a veto if it is their desire to do so. Unless we write this language in. every single thing that the legislature does in the last 15 days of this session is going to be subject to a pocket veto. The Governor, without any reference back to the legislature at all, can handle as he sees fit any piece of legislation that goes through the legislature in the last 15 days of the session. He doesn't have to return it to them at all. He can veto it, and I believe that allowing him five days, in the case of bills that he desires to veto, is long enough.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: . I disagree with Mr. Sundborg. It seems to me that in a busy session of the legislature with lots of bills being passed, and presented to the governor, he ought to have more time than five days to consider a matter, particularly if it is a long tax measure or some other bill that is of great length and five days wouldn't be nearly enough time and I think the provision ought to remain as it is.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I seconded this motion. I think it has merit. I think it will keep the session more smoothly because then the legislature will know exactly where they are. They know when they get a bill to the governor, they're going to get it back in five days and I think it would have a tendency to stop this backlog at the close of the session. I think it's time enough for the governor, he has assistants, specialists, he isn't up there all alone. He'd probably have somebody else write the veto message anyway.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would agree with this amendment except that there can't be a backlog at the end of the session because there is no limit set for the session.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that if a bill is of such a nature that the governor would veto it when it finally got through, that he would no doubt have his eye and his mind on that bill from the day that it was first introduced in its first house and that he would have kept track of all the ramifications of that bill and the amendments and when it got to his desk, he would know as much about it, this bill, as the men in the house and the senate that passed it, and I think within 15 minutes he could veto it, because he would know whether he was going to veto it or not, and I think

five days is giving him ample time to veto that if he is going to veto it and get it back to the house in which it originated.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I would like to ask a question. It seems to me there is an inconsistency, and maybe it's me, but if he didn't veto the bill within five days, say it was eight days before he vetoed the bill, what about it? What are you going to do about it? It gives him, a little later on here, 15 days to veto it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, the governor at present has three days in which to veto a bill and that has been the case ever since 1913. We give him five under this amendment, a fairly decent amount of time. I want to ask Mr. Sundborg if the intent is to change the language on the following page here, "...if the governor neither signs nor vetoes a bill within fifteen days (Sundays excepted) after it is delivered to him".

SUNDBORG: I did not intend to change that Mr. Rivers, I did give it some thought overnight and I believe that is a good provision. That gives him -- of course the legislature would know. If they haven't heard back from the governor in five days, the act they have passed on to him is going to become law. There is nothing else he can do to it to kill it, and they will know that after five days, but he has 15 days in which to sign it. He can let it become law without his signature or he can sign it.

R. RIVERS: Mr. President, I can't understand how he has got to return the bill with his objections in five days, which I understood would be the veto message, and still have 15 days in which to sign it. I am mixed up here someplace.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, it was pointed out in Committee that at one time, in the State of Colorado, the governor had four employees writing veto messages because the number of bills that were

piled up in front of him, he could not possibly handle within the 20-day limit that he had, and that after these four employees working day and night wrote his veto messages he merely signed them and sent them back to the legislature. If you want your governor to veto a bill you will have to give him 15 days, if you want a hired employee to veto it and present the message to the legislature you will give him five days.

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

HELLENTHAL: I move and ask unanimous consent that in Section 15, following the word "legislators", line 23, page 5 a period be inserted and the words "to which the state is entitled" be stricken, and that likewise in line 3, page 6, a period be inserted after "legislators" and the words "to which the state is entitled" likewise be stricken.

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

(The Chief Clerk then read the proposed amendment by Mr. Hellenthal.)

HELLENTHAL: Mr. President, I ask unanimous consent.

BUCKALEW: I object.

HELLENTHAL: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: All I wish to make is a very brief statement to the effect that if you take out this terminology, you are saying that two-thirds of the legislators in attendance at the time the veto has taken effect, not two-thirds of the total number of the legislators.

HELLENTHAL: I am positive that it means two-thirds of the total number because that is what it says. It says in line 23, "two-thirds vote of the total number of legislators". Now the only reason I make my objection is this, this is the only place in the constitution where any of the proposals in which the language, "to which the state is entitled is used. It presupposes some apparent country permitting us to have legislators and specifying the number. This is predicated on organic act thinking, not on constitution thinking.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as proposed by Mr. Hellenthal be adopted by the Convention?" All those in favor of the adoption of 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 15? Mr. Victor Rivers.

V. RIVERS: On line 18, did we change the word "representatives" to "origin"? Was that motion made?

PRESIDENT EGAN: The Chair recalls that some amendment of that nature was made. Just how it was made, Mr. Rivers, I don't recall.

V. RIVERS: Well the amendment yesterday had other matter that may have been objectionable. It's a little questionable in my mind why a bill originating in the senate should be returned to the house of representatives when it is vetoed. I would like to ask that question of any member of the Committee that would like to answer it.

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

MCCUTCHEON: Because it had in the article as originally written, the fact that it would go to joint session and the joint session would be held in the house. Therefore it would be returned to the house and the senate notified.

V. RIVERS: I would ask unanimous consent to change the word "representatives" in line 18 to "origin". Section 15.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the word "representatives" in line 18 be changed to read "origin". Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other amendments to Section 15? If not are there amendments to Section 16? Are there amendments to Section 17? Section 18? Mr. Hurley.

HURLEY: Mr. President, I would like to ask a question on Section 18. What happened to the amendment to Section 18 offered by Mr. Ralph Rivers?

CHIEF CLERK: It was voted down, it failed on voice vote.

PRESIDENT EGAN: Are there other amendments to Committee Proposal No. 5? Mr. Stewart?

STEWART: Did we consider Section 25?

PRESIDENT EGAN: Section 25 was held over until the apportionment article comes before us. That is the understanding of the Chair. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to object if that is the Chair's ruling on this. I believe it was stricken from this article and the subject matter is to be considered at the time we take up the apportionment article, but this article is now complete. We have stricken Section 25.

PRESIDENT EGAN: I did not happen to be present when that happened, I was told that it was held over. If that is correct, then that section was deleted and the article is now complete unless there are other amendments to be offered at this time.

LONDBORG: I move and ask unanimous consent that the session recess for two minutes.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Committee Proposal No. 5? Mr. Ralph Rivers.

R. RIVERS: I don't want to unnecessarily delay the progress of another article but I am very deeply worried about one section here and I think I would be derelict in my duty if I didn't bring it up. I am referring to Section 18, the last section on page 7, commencing on line 8. I want to report that this morning I moved a certain amendment and I will identify it. It says, "No local act shall take effect until approved by the qualified voters in the district to be affected. I moved that "no local act calling for appropriations by the local areas to be affected" would become the law until the people voted on it. Now, in order to reopen that, I am going to move that we rescind our action which rejected my proposed amendment and I want to be heard once more on it briefly, in the hope that I will be doing some good. I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the Convention rescind its action taken in voting on his proposed amendment this morning. Is there a second?

V. FISCHER: I'll second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, in the first place the legislature here must act by general law whenever possible but where it is not possible to act by general law the legislature may pass local legislation. Local legislation is generally with regard to a particular town or a particular borough or a local political subdivision. Most local laws are in the nature of relief to disaster areas or solving some very acute problem like

subsidizing a hospital in a certain particular locality which generally could be by general law, but maybe it can't. In other words, in most instances a local law is for the benefit of a particular locality. Now why the people that are in the disaster area and the legislature appropriates money for that area should have to take a vote on whether they can receive that money or not is more than I know. Certainly, as Mr. Fischer said this morning, if the legislature is

going to try to levy some money impositions on a locality without the consent of the people, then by all means let the people vote on it, but unless the local act involves the disbursement of local funds or unless the local act calls for an appropriation by the affected political subdivision then don't make the people have a referendum on it.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action taken on voting upon Mr. Ralph Rivers' proposed amendment this morning?" The Chief Clerk will call the roll.

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

Yea: 37 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hurley, King, Knight, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Taylor, Walsh. White, Wien, Mr. President.

Nay: 16 - Davis, H. Fischer, Hellenthal, Hinckel. Johnson, Kilcher, Laws, Lee, McCutcheon, McNealy, McNees, Peratovich, Poulsen, Robertson, Smith, Sweeney.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 37 yeas, 16 nays and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the Convention has rescinded the action taken. The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" Mr. Barr.

BARR: Point of information. I don't have that amendment before me now. Did that apply only to the first sentence?

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

CHIEF CLERK: "Page 7, line 8, after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'." This is to Section 18.

BARR: That answers my question. I was worried as to whether that was in that particular position or not. I think it is highly necessary that it should go there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, this business of relief to a disaster area, wouldn't there be general legislation allowing the government to provide relief to this disaster area?

R. RIVERS: Mr. President, I went in to some of those Texas cases where the Texas legislature gave a remission of property taxes to particular counties which had had disasters. That was strictly local legislation and it is hard to visualize ahead of time what particular local acts would be taken, but most of them would be for the benefit of a community, not to abuse a community, so I only want the referendum to be held when there is going to be a financial levy.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, the question in my mind is one that was raised by Mr. McLaughlin's explanation during the last discussion on this proposition. At that time he pointed out that if this amendment is adopted, the legislature could sit back and change the county seat or the capital perhaps, or do anything in the way of special or local law

without having it submitted to the voters. The only way it could be submitted to the voters is if it involves an expenditure of funds, as I understand it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, let me explain. I am in favor of Mr. Rivers' amendment. I was merely explaining what people were confused on what local acts are -- I was giving them an explanation from California -- what they are, and what special acts are. The legislature is still prohibited. even with Mr. Rivers' amendment under the first sentence, from passing any local or special acts. Obviously the intent of this article is not to go into the detail, pages upon pages of defining what special acts or local acts they meant. They merely say it is a matter for judicial determination, that is, the court can determine whether or not the legislature had the power to pass those acts. Now the local act that takes effect, I think Mr. Rivers has pointed out a defect in the language in that where if you are deliberately trying to benefit an area that desires to be benefited, needs the benefit, in substance we say you have to go through the expensive process of voting upon the thing, having an election held in the community, in order to receive the benefits that obviously you desire. I think this is very commendable and almost necessary.

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

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yea: 39 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Emberg, V. Fischer. Gray, Harris, Hellenthal, Hermann, Hurley, King, Knight, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan. Nordale, Peratrovich, Reader, Riley, R. .Rivers. V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, Walsh, White. Wien. Mr. President.

Nay: 13 - Cooper, Davis, H. Fischer, Hinckel, Johnson, Laws, Lee, McCutcheon, McNealy, McNees, Poulsen, Robertson, Sweeney.

Absent: 3 - Hilscher, Kilcher, VanderLeest.)

CHIEF CLERK: 39 yeas, 13 nays and 3 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 5? If there are no other amendments, then the proposal is ordered referred to the Committee on Engrossment and Enrollment. The Convention will now take up Committee Proposal No. 14, the proposal that deals with suffrage and apportionment. Mrs. Sweeney.

SWEENEY: Mr. President, I am wondering, since it is so close to our recess time if we would be better off recessing now until 7 o'clock, before we start on this new proposal.

PRESIDENT EGAN: One thing about it, we will have to read this in its second reading, Mrs. Sweeney, before any amendments or any explanations could be made. If the delegates so desire, and the Chief Clerk so desires, we could continue with the second reading until 5:30. Mr. Sundborg.

SUNDBORG: I recall also that Mr. Hellenthal promised us an hour or so dissertation on his explanation of what this is all about and I think the sooner we get at this, the better.

PRESIDENT EGAN: Yes, I believe we should read it for the second time first, and then allow for the dissertation. We will read Committee Proposal No. 14 for the second time, and then we will recess. The Chief Clerk may proceed with the second reading of Committee Proposal No. 14.

(The Chief Clerk read Committee Proposal No. 14, introduced by the Committee on Suffrage, Elections and Apportionment for the second time.)

PRESIDENT EGAN: The Chair would entertain a motion for recess. Mrs. Sweeney.

SWEENEY: Since we still have a few minutes and I am wondering if it is possible to have the Chief Clerk read the letter from Curtis Shattuck on apportionment, which is on file on the Clerk's desk.

HELLENTHAL: I have no objection to Mrs. Sweeney's request but the Section 1 of the schedule and Section 2 of the schedule are as much a part of the constitution as the matters that were just read and they too, should be read.

PRESIDENT EGAN: The Chief Clerk will proceed with the reading of the sections.

(The Chief Clerk then read the balance of Committee Proposal No. 14, Schedule.)

PRESIDENT EGAN: Mrs. Sweeney, now what was your request, a letter that was on file from Mr. Shattuck be read at this time?

SWEENEY: Yes, since we read the letters on the education portion, I think it would be well to read this one.

UNIDENTIFIED DELEGATE: I object.

SWEENEY: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I thought we had agreed once and I think we should stick to the decisions we made that before we start in with the arguments for or against or criticism of these articles, that we would hear from the chairman of the committee so that he could give us the story and I think that we should do that. I don't think we should start in with arguments before we hear the complete story and explanation. then we won't get off on the wrong track and waste a lot of time.

PRESIDENT EGAN: We know that the Chairman is going to make a lengthy dissertation. Mr. Coghill.

COGHILL: Mr. President. Seeing that we are going to have an hour and a half or two hours of discussion on the apportionment article this evening, why in moving for recess I would like to

have the delegates to the Constitutional Convention consider moving to recess into a Committee of the Whole do away with the stenotypist and shut the tape machine off for this whole discussion for this evening only. It would save three hours of tape and a lot of worry on the stenotypist, and I think we could possibly accomplish more this

evening by going into a Committee of the Whole, discussing thoroughly the article on apportionment and then coming out tomorrow morning with our decision.

PRESIDENT EGAN: What is the pleasure of the body? Mrs. Sweeney.

SWEENEY: He'll have to ask --

COGHILL: I so move.

KNIGHT: I'll second the motion.

SWEENEY: I think we'll probably have to check with Secretary Stewart to find out whether the stenotypist for tonight has already been ordered.

COGHILL: I am certain we can cancel him because we have an hour and a half.

PRESIDENT EGAN: Mr. Knight seconded the motion that the Convention resolve into a Committee of the Whole after the dinner recess. Mr. Kilcher.

KILCHER: Is that motion debatable?

PRESIDENT EGAN: It is debatable.

KILCHER: I should like to argue against the motion simply because I think, if anything, it would be of value in the future to be on record. I would like to get a record of my stand on apportionment in every respect, that is one of the things that will have the furthest bearing in the future.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In making this suggestion, I was not thinking of Mr. Kilcher or any other delegate's record. There is still tomorrow when this proposal comes out. You've still got time to verify yourself on the record. It's a matter of convenience to the delegates and a matter of economy as far as the Convention is concerned.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to support Mr. Kilcher to this extent. that I believe this will probably be the most controversial article to hit this floor and if any one sentence at some future date can be referred back to the record, I think it is a minor expense that we should have tonight. I don't believe it is going to take any two hours and as soon as the conversation is over with, we can get down to business and accomplish something tonight at the end of the discussion.

PRESIDENT EGAN: Mr. L ondborg.

LONDBORG: Mr. President, I agree with Mr. Coghill as far as the Committee of the Whole and just an informal discussion. I think that would be very profitable, however, I can't help but support Mr. Kilcher in that I would like to have it on the tape. I think it is going to be valuable in the future. I would like to save the money but I think it is worth the money.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I also have supported the idea of general discussion in Committee of the Whole, but with the full record for the purpose of further consideration and I believe that we should have the tape and the stenotypist here.

BUCKALEW: I move the previous question.

PRESIDENT EGAN: Mr. Buckalew moves the previous question. COOPER: I second it.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify"by saying "aye", all those opposed by saying "no". The ayes have it and the previous question is ordered.

COGHILL: Mr. President, can I legally withdraw the question, now that it has been ordered? I would like to withdraw my motion if it is at all possible.

PRESIDENT EGAN: The motion is before us. The question is, "Shall the proposed motion as offered by Mr. Coghill be adopted by the Convention?" The motion is that the Convention resolve itself into a Committee of the Whole following the dinner recess and allow a full discussion by the committee chairman of the apportionment article.

V. RIVERS: Are we voting to suspend the rules and go into this meeting or not?

PRESIDENT EGAN: The motion stated that we would dispense with the record at that time. The question is, "Shall the motion as offered by Mr. Coghill be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yea: 23 - Armstrong, Awes, Barr. Coghill, Cross, Gray, Hinckel, Hurley, Johnson. King. Laws, Lee, McNealy, Nolan, Peratrovich, Poulsen, Reader, Riley, Robertson, Sundborg, Sweeney, Taylor, Walsh.

Nay: 30 - Boswell, Buckalew, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Kilcher, Knight, Lodborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, White, Wien, Mr. President.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 23 yeas, 30 nays and 2 absent.

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

JOHNSON: I move that the Convention stand at recess until 7 p.m. this evening.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 7 this evening. Is there a second?

DOOGAN: I second the motion.

ROSSWOG: Mr. Chairman, we will have a Local Government Committee meeting at 6:10 p.m.

PRESIDENT EGAN: Is there objection to the recess until 7 p.m.? Hearing no objection it is so ordered and the Convention stands at recess until 7 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White. WHITE: Mr. President, I rise to a point of personal privilege.

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

(Mr. White, under personal privilege, introduced Mrs. William A. Egan, wife of the President.,

PRESIDENT EGAN: The Convention now has before it Committee Proposal No. 14. The Chairman of the Committee, Mr. Hellenthal, will you care to present --

HELLENTHAL: I will read a letter first of all that was requested.

PRESIDENT EGAN: Mrs. Sweeney, wasn't it the intention that you would have this letter read after Mr. Hellenthal is through with his presentation?

SWEENEY: Yes, whenever we come to the portion where we need it.

MARSTON: Can we have this whole program presented without interruption? I think it is for the good of all the people if we do this.

PRESIDENT EGAN: The Convention will be at ease for a moment. Mr. Armstrong?

ARMSTRONG: Mr. President, while we're off the record here, is it necessary to have a letter read of this type when the hearing was held in a town and it was open to everyone to come and present their views?

PRESIDENT EGAN: That is up to the Convention, Mr. Armstrong.

ARMSTRONG: It seems to me that it is taking up our time here when we have already given two and a half days of our time to this type of thing.

PRESIDENT EGAN: Mr. Gray.

GRAY: I agree with Mr. Armstrong on that. We did have a public hearing and we had the sentiment and the Juneau members received the sentiment and a copy of a deposition was filed with the group. I can see that there may be 50, 75, or 100 of these letters, if you set a precedent this way. I am fully acquainted personally with the feeling and I think the Juneau representatives are.

SWEENEY: I will withdraw my request to have it read if we will follow that practice but we had already started the practice of having some letters read, so if we adhere to this policy, it's fine. I'll withdraw my request.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I move and ask unanimous consent that the Convention resolve itself at this time into a Committee of the Whole with a full record for the purpose of hearing the discussion of the committee proposal on apportionment.

PRESIDENT EGAN: Is there objection?

MARSTON: I object.

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

WHITE: I so move.

KNIGHT: I will second the motion.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, it seems to me that we acted on this before supper.

PRESIDENT EGAN: It is a different question, Mr. Doogan. in that the question was that we go into the Committee of the Whole without a record. This motion is that we resolve ourselves into a Committee of the Whole with a full record, transcribed, and stenotype record be made of the proceedings. Mr. Marston.

MARSTON: I was going to make the appeal to this body of men and women that we do not interrupt the committee chairman until this Committee has had a full presentation. I saw this happen in the debate on initiative and referendum and I almost gave up when we attacked that from all angles here and no control, and I don't think we got any place with it until we got back into regular floor work, so I am going to request and ask unanimous consent that we let the Committee go clear through this and get the whole picture before you start tearing it apart, limb from limb, and what not. I'm going to request that, give a full story before you tear into it.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I see no real advantage of going into a Committee of the Whole as long as we are going to have the full record. I can't see where we can do anything but waste time. We might just as well stay in session and then we won't have to have a report of the Committee of the Whole. I'm going to vote against it.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: The reason I objected, I was wondering now if we do go into a Committee of the Whole, will the record be in our minutes or is just a record kept?

PRESIDENT EGAN: A record of soundscribing, transcribing, and in the stenotype report.

ROSSWOG: Would we be given a copy of the minutes?

PRESIDENT EGAN: No, you will not Mr. Rosswog.

ROSSWOG: Then I will still object.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, just a point of information. If we don't go into a Committee of the Whole, and stay in session, then a motion for amendment is in order at any time. is that right?

PRESIDENT EGAN: That is correct, Mr. Londborg. Mr. Sundborg.

SUNDBORG: Mr. President, I would favor this suggestion that we would go into the Committee of the Whole for several reasons. We tried it once with the initiative and referendum and I think we were all a little disenchanted by the process because we didn't seem to get very far and it took us days and days thereafter to go through that article. I think we've had about the same experience on other articles when we haven't tried for an explanation in the Committee of the Whole. One reason I think it would probably be profitable for us to go into that kind of a session tonight is that the Chief Clerk, now that we are meeting day and night, has no opportunity in which to write out her journal of the proceedings except by staying at it in other hours when we are not in session and as we all know, there are not very many such hours. If we're in the Committee of the Whole, no journal is kept. There is a record on the stenotype and a record on the tape but we could let the Chief Clerk go and try to catch up on the day's journal, which is a big job.

COOPER: I feel impelled to say this and that is. I for one will vote against this issue because I strongly feel that the President now presiding in the Chair can conduct the meeting much better during the evening.

PRESIDENT EGAN: The question is, "Shall the Convention resolve itself into a Committee of the Whole at this time?" All those in favor of resolving the Convention into a Committee of the Whole at this time will signify by saying "aye". all opposed by saying "no". The "noes" seem to have it and the Convention has not resolved itself into a Committee of the Whole. Mr. Hellenthal, would you care to begin your explanation?

HELLENTHAL: Mr. President, I do appreciate that questions will not be asked until we conclude the presentation of the Committee, and I should at the outset like to invite the delegates to the two maps that were mailed to them during the recess. I have them before me, one is the map with 24 Arabic figures on it, one is a map with 12 Roman figures on it. Each map is of Alaska, and I know that there are other copies available. If all of the members do not have copies now, they can get them from the Sergeant at Arms. There is also a paper entitled "Method of Equal Proportion", which was distributed to each member. And if some of the members do not have that. I suggest that you get it now from the surplus copies.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, would it be helpful to bring the map up where we can see it here?

PRESIDENT EGAN: Where do you think would be the best place?

(The map was then situated next to the President's table.)

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

HELLENTHAL: Mr. President, at the outset I should like to point out that I feel that this matter is not so controversial, it is more technical, and that's why the Committee appreciates an opportunity to present the plan as a technical plan in the form of an integrated whole, because any apportionment plan must be carefully integrated. Now all apportionment plans are the results of weighed and considered compromises, and I want the members to bear in mind that this plan -- after careful and long decisions by the Committee members, after consulting for weeks with advisors -- is a weighed and considered plan and is made up like all other apportionment plans -- with compromises.

And remember that in your considerations. Now the goal of all apportionment plans is simple: the goal is adequate and true representation by the people in their elected legislature, true, just, and fair representation. And in deciding and in weighing this plan, never lose sight of that goal, and keep it foremost in your mind; and the details that we will present are merely the details of achieving true representation, which, of course, is the very cornerstone of a democratic government. Now at the outset, the Committee met, analyzed the situation, read their bible -- the manual -- and determined to analyze the composition of this body created under the provisions of the 1955 Act of the Territorial legislature. They felt that it would be a good taking-off point, not that they had great pride in that body, but that they were more familiar with it than any other, and, furthermore, that it was the first body that had been created by the Territorial legislature and was born of Territorial and Alaskan experience. So they felt that that above any other bodies would be the body to study to determine and get hints as how to achieve truly representative government. They analyzed in turn the election districts that were created under this act. You will recall that there were 17, I believe, election districts as set up under the 1955 Act; you will recall that they consisted of, in the main, of recording districts; you will recall that the recording districts were ancient creatures in Alaska. that they are created by the district judge, and that in general they follow watersheds and in general they bring together a little sociological economic unit of the people of Alaska. They analyzed the composition of those districts, and those of you that were in the Territorial legislature probably realize the problems that

arose. I suppose that the reason they call apportionment a difficult problem is that it is a case where a legislator -- and in the sense we are all legislators in the sense that I use that term -- it is where you are confronted with your selfish desires. You have on the one hand the people of the greater whole; on the other hand you have the people -- your neighbors, your friends who always urge you to help them to the greatest extent possible. And the problem generally is, "What can I do to help the greater good of the State?" And someone is going to be hurt. Now when I say "hurt", the language is intended to mean you can't, on an apportionment plan, I don't think, that if you were given the problem of apportioning the heavens, or heaven itself, that you could please all of the occupants, but you just have to try. So anyway, that's the way the thing started out. They went through each district, analyzed it back and forth. It was generally agreed that the plan which indicated the composition of the house of representatives was a sound one, and that the watershed-boundary principle, which was the principle used in the recording districts principally, should be adhered to. with one modification -- it was pointed out that in Southeastern Alaska. traditionally, the steamship routes have been used as boundaries and that generally a traveled route such as a steamship route was not a boundary, but it was a route piercing a valley. like a highway more. And so they recommended and felt at the outset that the watersheds should be used as far as land masses are concerned, but in an area such as Southeastern Alaska. and to a very limited degree, the Aleutian area, that if possible the boundaries of the election districts should be adopted, and with that in mind, the boundaries of the six election districts in Southeastern Alaska were drawn. Now after studying and going through the different districts, adhering to the principle of compactness -- in other words that a district should be as compact as possible adhering to the boundary principle of watersheds, adhering to what they call a socio-economic principle, and all that means is that where people live together and work together and earn their living together, where people do that, they should be logically grouped that way. They have come up with a plan calling for 24 election districts in Alaska. The population of those districts -- and population was an important factor in determining the boundaries of the districts is available, and for any of you that are interested, we have it and we can furnish it to you at any time any member has any questions later in which population is a factor. Now the 1950 census was the basis for population figures used. As we all know there have been great changes in Alaska since the 1950 census. So we knew that we would have to have some figures to reflect those changes. There are no official figures, as you all know; the census is determined decennially. There are no provisions in Alaska for a five-year census. so we must be bound with the ten-year United States government decennial census. So the advisors studied the school enrollment of the various cities of Alaska in 1954. and using school enrollment

as a base. brought the 1950 census figures of the various election districts up to date, so that the Committee was well aware and had a firm basis -- the firmest available -- upon which to reach conclusions as to the present and projected population of the election districts. and those factors, those figures, were all taken into consideration in determining the election districts that are shown before you. Now in this map -- the reason for that map, the prime reason, is to show the delegates the watersheds of Alaska and their connection with these 24 election districts. The map that you have -- the small map, if your eyesight is very good -- you can detect the contours and can see the topography of the Territory, but this map shows it beautifully and adequately. And I think that any determination of the boundaries of these districts hinges upon seeing them in relation to the topography of the future State. Now based on the population and the districts, and based on projected populations of the State, and the projections indicated that the population of Alaska would be in the neighborhood of 230,000 following the 1960 decennial census and that the present population was in the neighborhood of 203,000. Now, based on those figures. it was determined, after studying them in relation to the 24 districts, that the composition of the house of representatives should be 40. Another factor entered into the picking of that number 40, and that was the factor of wieldiness; it was a wieldy figure. Was it such a figure that would be workable, not too expensive and yet which would adequately serve the representative areas of the state? Analysis was made of the 48 states, and as far as the Western states are concerned and the states that in geography compared to Alaska, it was indicated that 40 is right in line. It is, in the opinion of the Committee, workable, economical, and in line with the modern thought and the. prevailing composition of similar lower houses in the states. Now. again, I may have gotten a bit ahead of myself. Still another element entered into the selection of the number 40 -- that was the problem of reapportionment. As we all know, as there are shifts in population and shifts in economic stress in any state, there must be changes in its representation to meet the basic test of representative government; and various reapportionment plans were considered. We'll put aside, for the moment, the question of what agency of the government should conduct the reapportionment, but reapportionment was definitely in order. As an area fell off in population, it should be given less representation; as it increased in its population, it should be given more. The situation of the rotten boroughs was analyzed. Where boroughs with fixed limits had been set up, particularly in England.and some of the states have them, and it was determined at any cost to avoid that in the future state. So it was determined that as the population grew, additional representation would be allowed to areas that grew; as it fell off. representation would be lost. But the Committee, after great consideration, felt that at the outset, that each of the 24 election districts should be assured representation in the new state. and they will

be, and I don't think that any other scheme could be devised for that matter. Each of the 24 will have one representative. If after the 1960 census, or after the first meeting of the legislature if statehood occurs following 1960, the reapportionment board will meet, and, according to a plan set out in the constitution and recommended by the Committee. the reapportionment will take place. The number will remain. of course, at 40. But if the population of Alaska falls below a figure known as the quotient, and it is a true quotient that is the total population divided by the number of election districts -- but if it falls below one-half of that quotient. then the area, the election district that had representation at the first meeting of the state legislature will lose it, and that district will be combined with a district adjacent to it and contiguous to it until its population again grows. And that raises the second principle, which is, where within one of these areas - for example, take Area 23 -- that's the one north of Fairbanks here and not a part of 24, which is the Fairbanks district. Should an oil boom occur there, and should it be determined that there are two economic areas within the larger whole, the board that is recommended to you, accepting principles in the constitution, will create a new election district approximately within the confines of the older district, provided that the two segments of the older district, each in population exceed one-half of the quotient. So provision is made in the plans submitted to you, and it is in Section 2, for growth and the creation of new election districts, and for decline in growth and the suspension or possibly elimination of representation of the area that has been passed up with progress. Now in cases of population growth, there must be some true and fair

method devised for apportioning the representatives to the election districts that have grown in population. Now this problem is the identical problem that the United States Congress faces when its membership, which you all know to be 425 or 435 -- one or the other figure. It esapes me --

UNIDENTIFIED DELEGATE: Four hundred and thirty-five.

HELLENTHAL: Four hundred and thirty-five. As the population of the nation increases, that figure is adjusted between the districts -- the representative districts of the nation. Congress gave many, many years to that problem, many years of careful study, and in 1942 they came up with what, in the opinion of Congress, is the very best method for handling it, the method of equal proportion, which was very adequately explained by Mr. Gray the other day. It is a well-known, clearly defined method, it is the method used by the United States Congress, and it's fair and just. The Committee felt though that there should be a modification of that plan to take care of our peculiar Alaska situation, and they proposed the modification and the modification is set out in the report: "..that any area with a major fraction of the quotient and no representation is to be considered more deserving than an area with a larger major fraction

but which already has at least one representative." That is a concession to the smaller areas, the smaller election districts. It gives preferential treatment to the little fellow instead of the man who otherwise, under the strict application of the method, would get the extra representative first. The method of equal proportions has been applied to Alaska by Congress and it is no stranger to us. Now on the method of the composition of the reapportionment and redistricting board, because redistricting, as we have explained would be necessary, the Committee recommends that the stress be placed on the executive in determining which of these election districts and where redistricting shall take place, or reapportionment. and it recommends the creation of a five-man advisory board to advise the governor with regard to the redistricting and reapportionment. It sets up very, very careful standards and limiting factors so that the governor and the board will not run away and will be acting within the limits -- within clear limits -- and are not given wide discretion. Those limits are set out in Section 2. The reason that this plan was adopted is that the students and writers seem generally in accord that reapportionment, for some reason or other, I don't know why, but it has been neglected where it has been left to legislators. Maybe it's that human element I spoke of earlier, but anyway the experience of the nation shows that the thing is delayed -- procrastination; that in the State of Washington they waited for years and years and years, and finally, only by resorting to the courts and the initiative were they able to reapportion Washington. It was costly, the people suffered. And based on that experience and the recommendations, and it's almost universal of the advisors, and by advisors I don't mean the men that were here necessarily -- but the writers throughout the country, the executive board was chosen, an advisory. board. If for some reason or other the governor fails to follow the advice of the board and redistricts or reapportions, original jurisdiction is vested in the Supreme Court, on application. to compel it by mandamus, so that the duties and the principles set out in Section 2 can be followed and that errors can be corrected. I think that, in general, covers the plan for the house. As I say, I know there will be many specific questions as to particular election districts and the committee members are ready to answer those, and the population data are ready for anyone who wishes to question that. Now the next question, and the logical question, was the composition of the senate. Now the composition of the senate is shown on the second map that you have, and it is also shown on the reverse side of this map. Now an analysis was made of the present judicial divisions which are the matters that have guided Alaskans in their history in its senate, and the Committee, after that analysis and studying it believed that the major criticism. among others of the judicial divisions. was that it permitted a situation to develop where tundra could elect senators; and. further. where the hinterlands within the divisions could not. where a situation developed where frequently -- not always. but frequently -- those hinterland

countries were left to the voting strength of the urban areas, and frequently, a definite tendency, the senators were chosen from the urban areas of Alaska, and the Committee felt definitely that that situation should be avoided. And with that thought in mind -- after considering many plans for electing senators -- a plan evolved in which the senators would be chosen from combinations of election districts. Starting from the tip of Alaska, from Southeastern, and working up you will notice, the districts were numbered 1 to 24. They take combinations of those districts in pairs. The first two, Prince William Sound and Ketchikan -- Prince of Wales Island, rather, which becomes the first step in the first senatorial district. Then the combination of district 2, Wrangell and Petersburg, with Sitka the second step. And the third step would be a combination of the Juneau Election District with the Icy Straits Election District. You'll notice that those senators are not chosen at large from the greater geographical area, but that they are chosen from the subdivisions of those areas. To take the first judicial division -- and it happens that the boundaries were identical the first senatorial district there would be one senator from each of the combinations of two election districts. two chosen at large, for a total of five. The constant factor is that from every greater senatorial district there are two senators chosen at large. Otherwise, the senators are chosen from these combinations of two. And the second election district, 17 to 20. compose the senatorial district. This roughly is the northern shelf of Alaska and encompasses this area two senatorial districts for a total group of four senators. In this connection I want to make one correction -- and you might make it on your map -- that District 20 on the map of the election districts is the Arctic Slope Election District rather than Noatak. And so if you could just on the schedule, where the name is found. refer to it as Arctic Slope. Through some error Noatak was used where Noatak is actually the Kobuk recording district. And then in the great river area of Alaska comes the Fourth Senatorial District, sweeps like the Yukon through the heartland of the interior, and it's made up of the Bethel and Bristol Bay Election Districts, the Kuskokwim Election District, of the Fortymile Election District and the Fairbanks Election District; and it has a two at large, three from combinations of two among six, for a total representation of five. And the remaining senatorial district comprises the Southwestern Alaska, and is as indicated on the map, and it consists of Election Districts 7 to 14, inclusive. And its total number of senators would be two at large and four chosen from combinations of eight. Now it was felt that Section 2 of the proposal made it clear that in cases of population growth, that this plan would accommodate itself to all such changes; but, to remove any doubt the Committee has determined to place in the report language that will provide that should new election districts be created resulting in. say, nine election districts in Southeastern Alaska, that the total number of senators from that senatorial district will remain the same,

but that within that total, adjustment will be made, so that a fair combining will be made. If there were one extra, the problem is that you'd have an uneven number, so that the combination would be made so that in all cases there would be combinations of two, wherever possible preference given the combination of two; if that was impossible. that three would be used -- combinations of three, rather than one. One would be an unhealthy situation, of course, because that would permit a senator from an election district in addition to the representative, and would not fit in with representative government. So to clear this matter, which is implicit in the report and which may need possible clarification, the Committee has that language ready and will incorporate it in its proposal. Now the question arose again, like it did in the house, as to what number the senate should consist of. Now we will recall that in the early days of Alaska the senate was composed of eight senators and later that number was increased to its present form of 16. We will recall that 16 seemed to violate the principle of wieldiness, in that it led to the frequent statements that a small group was able, on certain instances -- isolated instances -- to thwart the will of the majority of the people, which is a clear violation of the principle of representative government. And for that reason -- that among many other reasons -- it was felt that 20 should be the composition of the senate. The two principle factors that led to the selection of 20 were the principle of trying to give the nonurban areas an assurance of representation in their senate, and the principle of making the senate large enough so that it couldn't be pushed around, so that it would be truly representative and not easily misled. And with those factors in mind. the number of 20 was chosen. Now on redistricting, on reapportionment, the approximate perimeter of senatorial districts will remain the same. but there

are provisions made for some flexibility in redistricting should the occasion warrant, and it would be an isolated occasion. Now there were a few changes made in the composition of the house from 17 districts recommended and found in the present 1955 Act. Now, as an illustration, I want to pick the one that was first mentioned at the committee hearing and the one to which attention was first directed. and that is the situation regarding Ketchikan and Prince of Wales Island. Now Ketchikan had a population of 5,754 on the 1950 census. On the 1950 census Prince of Wales Island had a population of 3,364; that population has greatly increased -- and I don't have the figures with me right now, but Mr. Rogers is going to bring them down -- it has been a substantial increase. And for that reason a change was made in the 1955 Act to permit the creation of a separate Prince of Wales election district. which consisted of, in the 1950 census, of 3,364 people, and today probably consists of in excess of 3,500 people. The reason for that, as you know, is the logging activity that has come there with the pulp mills, and hence, that situation was recognized. Similar recognition was made to other areas in Alaska. and in general I might say it seems this DEW-line activity was one of the

principle contributing factors to that recognition. Now I think that we have covered the plan in general. I will not go in at this time to the rather elaborate transitory provisions. It all hinges on whether the first legislature meets in an odd-or even-numbered year, and adjustments must be made in that case, and we feel we have made the most logical adjustments to take care of any eventuality there. The schedules. I want to emphasize, are a part of the constitution. Hawaii had a very similar program and a schedule which you have in the Committee report and which gives the districts and describes them and gives their composition. Those are printed in the back, or included in the back portion of the constitution. but they are a vital and stated portion of the constitution. and it is the Committee's recommendation that they so be included here. Now I hope I have given a general idea of this matter. Other Committee members are going to elaborate on other points and pick up anything that I have omitted. And Mr. Coghill, Mr. Peratovich, Mr. Gray. Mr. Cooper. Mr. Marston. Mike Walsh -- they're all here and they will all be happy to help you. And we just hope that by trying to piece the thing together that it will make your ultimate decisions easier.

PRESIDENT EGAN: Thank you, Mr. Hellenthal. The Chair was about to suggest that we not attempt to accept amendments tonight, or that the delegates not attempt to offer any amendments, that they just go ahead with questioning of the Committee members and hearing from other Committee members, if necessary; and. any delegate who has a question may ask it of the Chairman of the Committee or other Committee members. Mr. Johnson.

JOHNSON: Mr. President, may we have a short recess. I'd like to check the maps.

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. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 7 has compared it with the original and finds it correctly engrossed. and the first enrolled copies will be placed on the delegates' desks in short order. I ask unanimous consent for the adoption of the report.

PRESIDENT EGAN: You have heard the report from the Chairman of the Committee on Engrossment and Enrollment. Unanimous consent is asked that the report be adopted by the Convention. If there is no objection, it is so ordered. The Committee Report No. 7 is now referred to the Committee on Style and Drafting, Mr. Marston.

MARSTON: I speak to the Chairman of the Apportionment Committee. Would you call on Mr. Cooper, another member of our Committee to explain further the senatorial districting. I think he can improve a little on that.

HELLENTHAL: I wish Mr. Cooper would, then after that have Mr. Gray and Mr. Coghill and Mr. Peratovich, all of whom could add to it.

PRESIDENT EGAN: Mr. Cooper.

COOPER: There's not too much that I can add to the explanation that Mr. Hellenthal gave on the senatorial division plan, with this exception: it must be realized and remembered by the delegates that the house plan -- the 24 election districts -- is based on population, and that the senatorial plan as offered to you here, is based primarily on geographical representation. The senatorial plan is the one measure that will eventually guarantee the outlying areas representation when the population will increase in great numbers in fairly minute areas such as Fairbanks and Anchorage at the present time. I shudder to think what would happen if at any time the outlines or the perimeters, as they now stand, might be attempted to be modified or amended by the delegates from the floor, in that this entire map of election districts and senatorial districts is tied together in one plan that provides for the representation that the people of Alaska have never enjoyed in the past. I don't believe that there is much more to be said on that subject.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a question. I notice that we have used 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 numbering on the map but not on the committee report. You might explain that.

COOPER: I don't quite follow this.

MCLAUGHLIN: What the question is is this: I just asked Mr. Hellenthal -- we have two excellent maps, one with Arabic numerals and one with Roman numerals, and the Roman numerals are numbered 1 to 12 on the one map, and I can't relate it to anything in the text. Can you explain that?

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

COOPER: Roman numeral 12 is the senatorial district which is comprised of Election Districts No. 23 and 24 on your map with Arabic figures.

PRESIDENT EGAN: Does that explain your question, Mr. McLaughlin?

MCLAUGHLIN: It does not, Mr. President. What I want to know is, when we use these Roman numerals from 1 to 12, it is unrelated to anything that they have in the text. Now as I understand it from Mr. Hellenthal, those numbers don't relate to anything, they are just something you put down on the senatorial districts during recess, is that right?

COOPER: Yes, sir, to make it easier for the delegates to relate the senatorial districts with the election districts, which they are very closely related to throughout this entire program.

COGHLIN: Maybe I can explain to the judiciary head the ramifications of this. The two maps were drawn during the recess, and we tried to photostat them from this here. We brought out this map of 12 Roman numerals representing the districts to clarify to the delegates the schedule that you will find on our schedule report, page 2, where we allow for two at large for, say District No. 1, which we have referred to as "A" on this map here. These maps are not going to be a part of the article, they are only for clarification for the understanding of the delegates. Your District

No. 1 is actually the "A" district. It says that two at large will be elected from that "A" district; that one senator will be elected from Election District No. 1 and 2, which is, in turn on our senatorial map Election District No. 1, and so on through the whole map outline. Does that explain your question, Mr. McLaughlin?

MCLAUGHLIN: Yes, sir.

PRESIDENT EGAN: Thank you, Mr. Coghill. Are there other questions? Mrs. Nordale.

NORDALE: Mr. President. I notice that on this little map where they have an "A", "B", "C", and "D" -- it seems to be a very logical succession. Over here in the schedule, I is "A", II is "D'", III is "B", and "C" is IV.

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

COGHILL: Yes, sir. In bringing about our Roman numerals on page 2, Election District No. 1 is set at one. Two is referring to the old judicial division of Alaska. Election District No. 2, Election District No. 3, or Senatorial District No. 3 refers to the old or part of the old judicial district of Alaska -judicial divisions numbers 3 and 4 in turn.

NORDALE: Was it your intention then to retain those old labels?

COGHILL: No.

NORDALE: Or are you going to call "A" Senate District No. 1; "B", Senate District No. 2; "C", Senate District No. 3; and "D", Senate District No. 4?

COGHILL: Well, if I might say, that has very little point, Mrs. Nordale. It could be called that, but I believe that the reason why the Committee set it at this was not to bring about a point of confusion with the other members here delegates and referring to the old judicial divisions.

NORDALE: The only thing is, it seems illogical to me. all know how they happened to be numbered in the very illogical way that they are right now, and it seems to me that now that we are ready to start again, it would be much more sensible to go 1, 2, 3, and 4.

COGHILL: I'm sure that the Committee has no objection to that. I'm not speaking for the Committee.

PRESIDENT EGAN: Mr. Davis.

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

PRESIDENT EGAN: You may, Mr. Davis.

DAVIS: I was concerned, Mr. Coghill, because while we have a map, and while we have a list that lists certain election districts, none of these election districts were defined. Now it's my understanding that the Committee is preparing and will have to go in -- as actually part of these schedules or boundaries of these various districts a schedule bounding the various election districts. Is that right?

COGHILL: I might refer that question to Mr. Hellenthal.

HELLENTHAL: Yes. Mr. Rogers is preparing the final description of each of the 24 districts this evening, and they are prepared and have been made up.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I might also add that upon adoption of our plan by the Convention, the Cadastral Engineering Office in Juneau will make the official definition of the lines. Mr. Fischer.

V. FISCHER: Mr. President, I'd like to ask a couple of questions. First of all I'd like to say that I think the Committee has done a phenomenal job. I think everyone who has followed their work is quite impressed that they were able to come up with as good a solution. There may be minor disagreements, but as a whole, certainly the plan for the representative districts is very good. One thing that concerns me about the representative districts is that in Section 2 of the proposal, on page 2, on line 8, the governor is granted authority to create additional districts. I think that anyone who listened to Mr. Gray's explanation the other day and realized its full implications understood that Juneau, according to this schedule, is losing a

representative to which it should be entitled because of the modification that the Committee has agreed upon to provide representation to more thinly populated areas. And I'm not disagreeing with that concept. What concerns me is that even greater injustice can be created if the governor, taking this authority, went all the way and created 40 representative districts.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President. Yes, the governor may further redistrict by the creation of two or more districts from within the larger geographic socio-economic areas of the state. That language all alone would permit the creation perhaps of a full 40 or 48, if it weren't for the restriction of 40. subject to the following limitations and here they come: "...the new election districts so created shall be formed of contiguous and compact territory, shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty.." That's one, and still another: "... shall contain as nearly as practicable relatively integrated socio-economic areas.. That prohibits gerrymandering which would have to take place were 40 districts arbitrarily set up by the governor. That would prevent it, and the principle of compactness and contiguity would also prevent it, and, furthermore, another limiting factor, the governor -- and mind you when I say the "governor" it means the governor on the advice of this advisory board "shall use drainage and other geographic features in describing boundaries wherever possible." On behalf of the Committee, the Committee feels that gerrymandering is definitely prevented by these restrictive limits.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I believe the language is clear in intent; I question its actual legal limitations upon the governor or the board that may be advising him. I think that you can put up a good argument taking these standards set up here, with a little bit of population added you can divide Haines from Skagway, if they reach a little bit more population. I could just go through and name quite a few, but I mean the thing is you can create a lot of small districts all over Alaska. The point that I'm trying to make is that when you create four more districts or six more districts without even having to go to 40, you're automatically going to create injustices in other areas, especially within a few years after that new redistricting has taken place. As you add another district -- Ketchikan, Kodiak, Anchorage, Nome, and Fairbanks, you may very easily lose another representative. What I would like to point out is that the other day Mr. Gray, in his explanation said that this system of equal proportion works most ideally when you have twice as many representatives as you have districts. The more districts you create, the further you get from the ideal; and,

I still would like to have some more committee consideration -- more strong limitation upon the governor's powers to create additional districts.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I might take the prerogative to try and answer that question. Mr. Fischer, there is one thing that you must bear in mind at all times, that when the population of one particular area grows, so does the population of all of Alaska. The total amounts become higher, and by dividing that by 40 you have, in turn, a higher quotient -- your quotient becomes higher. Your districts that do not grow will automatically lose their representation, not in the sense of losing complete representation; they will be joined with another district and will be represented that way. They will always have a vote, but you will never get to the point where that you will have more population than your districts.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Well, Mr. Coghill, do you agree with Mr. Gray's statement of the other day that the ideal set up is when you have twice as many representatives as you have districts? I mean, that's the closest you can come to the ideal.

COGHILL: What is probably the ideal situation, I wouldn't venture to say, Mr. Fischer, because the concept of watersheds and socio-economic areas is still a big factor in the reapportionment.

GRAY: I said that it was in my opinion. I had valued it out where in no case should your districts take more than your population. In my opinion in the little work that I have done, I didn't want the districts, like if we had 40 members, if you get 30 districts or 35, the less number you have for population upon population or multiple figures of the quotient.

V. FISCHER: While you're up on your feet, do you think that since the house of representatives is supposed to be set up on the population basis, and

accepting the committee proposal modification, in order to keep that, there should be a maximum number of districts in the constitution, be it 25 or 30, or 24?

PRESIDENT EGAN: Mr. Gray, do you care to answer the question?

GRAY: If I follow you on this, like anything else, it is what do you want? The members divided into the population gives you the quotient figure. We have one representative for every 2,724, and every representative has that much and if multiples are exact figures of 2,724, then you come out even. That is the system of the quotient. Now when you have a modification, the Committee thought was, it provides that any area with a

major fraction, and they don't have enough and no representation at all. is more deserving than an area that has a major fraction and already has no representation. You put the modification in and then you start stretching your equality of systems. You have a mathematical premise. and then you are imposing a moral premise on it. Now you either have to take the moral premise or a mathematical premise; you can't have both. Do I explain myself?

V. FISCHER: Mr. Sundborg shakes his head. You did explain yourself to me, and I understand you fully. In accepting the moral premise, the question is how far shall we stretch the mathematical premise. And my question was, would it not be feasible to set a maximum limit as to how far we'll stretch the mathematical principle that you established?

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I followed this Committee pretty much. If I asked for the privilege of talking a little more than I ordinarily have, it's because I was attending every meeting and I find I know pretty near as much about it as

the committee members. In this article, if you will notice, Mr. Fischer, it says that when they form new districts, they can only do it when the population is at least equal to the quotient obtained. It didn't say half the quotient. Now if they had gone ahead with that thinking, that they could use the half-quotient, then I could see where your contention would be right, and by continually making new districts and using a half-quotient, why they could eventually use up all the representation and deprive the larger centers of their just and fair due. But unless I'm mistaken, it wouldn't work that way in this case, because any new districts that are formed in the future state will not have the privilege of having that half-quotient deal which would gradually eat up all of the surplus. Does that answer your question?

V. FISCHER: I understand your reasoning. I will yield my point. I'll discuss it with Mr. Gray later.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, my only point was that if a limitation on the governor, who acts on the advice of this civilian board, and is subjected to the checks contained in Section 2, as well as the other checks of the constitutional provision, and the check of public opinion, and the check of recall and re-election, and everything else, if the governor, on the advice of the specialists, were to flaunt the thing, I think that there would be a very quick remedy. But if the group felt that a limitation on the number of districts that could be created were in order, I'm sure that the Committee would have no objection; but I know that the Committee feels

that there are sufficient checks on any abuse of that power in the proposals.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I think it might be a good idea to get that blackboard down here that we had a while back. We never used it as much as now.

PRESIDENT EGAN: Are you asking if we can stand at recess and get the blackboard, if it's available?

COGHILL: The blackboard is behind your stand, behind the maps.

KILCHER: I have figures here which it might be well to draw on the blackboard; they have no direct bearing on the map, just on the problem in general. And if a chalk were available, I would like to use it, if there is a chalk available?

PRESIDENT EGAN: Are you asking the Committee to take their map off? Is that your request? Behind it is another map, Mr. Kilcher. The Convention will come to order. Mr. Lee.

LEE: Mr. President, I ask for a two-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher, do you wish to use the blackboard?

KILCHER: Yes, sir, I would like to use the blackboard.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I'd like to hear from more of our Committee. This plan was born out of heat and strife, and it is a good plan; and, if you start kicking that around, we are going to be in for days of working and getting it back together. It's a plan that will make the constitution live. And you kick that around and throw a lot of foreign matter. you will not come up with as good a plan, and I hope that you will think thoroughly on that before you go into a lot of foreign matter. I was hoping we could spend the whole evening on this and go home and sleep well, and tomorrow the sky's the limit. The plan will grow with the population of Alaska. I hope that you think thoroughly on it before you throw it into days of lost time and then come back to this plan.

PRESIDENT EGAN: Mr. Marston, it's been by general agreement that there will be no amendments offered to this plan tonight.

Mr. Kilcher.

KILCHER: Mr. President, in the nature of this evening's session, I would like to make a few remarks in the nature of questions, the same as Mr. Fischer did awhile ago. I'm worried about possible outcomes of the apportionment system as proposed. Maybe tomorrow somebody will find a solution; maybe I'll be convinced that we will have nothing to worry about, but in the nature of an inquiry for my part and possibly also suggestions, I think I'm very well acquainted with the problem at hand, and one problem that was possibly my main interest in the Convention, and I would like to make a few remarks. The first thing that comes to my mind is that I'd like to address to Mr. Gray. When you mentioned that the system of equal proportion of the United States had been applied, with a minor modification, I agree, except that the word minor" -- that this modification, I think, is a basic one. We may be in favor of it, and yet we may not; but I'd like to point out the basis of this modification, and a few other basic problems. I think it is good luck that we have this opportunity to talk for once about basic issues, if you recognize them, before we amend and amend. We might make slight changes changes in the system of apportionment and possibly everything that's on the map -- maybe minor changes, maybe as it is, we will sail through nicely. tomorrow. I don't think there will be very much argument, personally. But the main disagreement I would have with Mr. Gray is there, in the case of the United States, they are assuring one representative to each state at least, whereas we have potential collapsible districts. I would like to make one illustration here as to what very likely might happen under this system of collapsible districts by bringing in a few figures. In other words we have to decide, maybe tomorrow, whether we want or do not want this collapsible district or whether we want a guaranteed representation in the lower house, period. That's the decision we have to make. Now if we are assuming here, as statistics have shown over the last 50 years, especially over the last 20 in Alaska, rural populations are fairly static in certain areas; they are even dwindling -- absolutely dwindling -- and urban populations are skyrocketing. I can see that in Alaska the skyrocketing would rather be the rule of the future. Now I have here a letter from the Office of the Governor, which indicates that in certain areas of Alaska the population may have shrunk the last five years, from 1950 to 1955. We are going from the assumption here that the Alaskan population is 108,000 people. Mr. Hellenthal tells me that he has available the submitted correct figures for 1954, which I had hoped we might have by now and have mimeographed for comparative purposes, it would save time now. But if we go from the assumption of 108,000, as your paper shows, a major fraction is 1,362' Is that right of that quotient of 1/40?

GRAY: That's right.

KILCHER: And 1,363 would not be a major fraction --

GRAY: Put it at 62, it makes it even. That's not a major fraction, that's 50 per cent.

KILCHER: Now on the assumption that the present population is about 200,000 -- is that roughly correct?

GRAY: Roughly.

KILCHER: If it is about 200,000, a major fraction would be 2,501 and a minor fraction would be 2,500, and the assumption that Alaska will double its population in 25 years which I think it will -- it will only be 400,000; if it doubles in 50 years it will be 800,000 people. You may well have a situation where a major fraction would be 10,001; the minor fraction 10,000. It's quite possible that of a population of 800,000 people there will be 100,000 in the rurals, that would be twice as many as there are now, or half again as many as there are now. In some areas there will be developments, and other areas it will be a stationary figure. Now if 800,000 people should be distributed, for instance, over five major cities -- industrial cities, boomtowns, or something, or solid cities with a variety of industry in them, it will be quite possible that these five cities which are in five districts would have 35 representatives in the house -- 35 representatives from five districts. That would leave 19 districts to have five. Nineteen districts would have five delegates to get a total of 40. In other words, 14 districts will be collapsed. It's quite possible.

GRAY: Rightly so, I might add.

KILCHER: Now also it is possible that three or four districts might collapse and pick them up two senators, so they will be super districts of -- let's say three former districts, not to be too harsh three former districts, they would have one -- (writing on blackboard) let's take four to illustrate the worst possibility. They have two senators and one representative. As a matter of fact there might be a district that has one senator and no representative whatsoever. So this is a possibility we have to foresee. Now this is projecting in the future, but I'm afraid that already now -- with the available (writing on blackboard) I may be one -- (Mr. Hellenthal then handed Mr. Kilcher a piece of paper) Mr. Hellenthal, thank you. With the available corrected figures, we now have a district that should be collapsed, now possibly?

HELLENTHAL: You mean that would be under 1,301? I know of no such district.

KILCHER: Of course, if you go to 200,000 it would be 2,501.

HELLENTHAL: On a population of 200,000?

KILCHER: Yes.

HELLENTHAL: If the 200,000 people all went to other areas and none of them went to this area (indicating on map), I think that there are one, two, three, four, possibly five or six districts that might lose their representation on that assumption.

KILCHER: I mean on your corrective figure for districts, too?

COGHILL: Mr. Kilcher, I think that you're making the issue a little too far on this in taking things on assumption. We have to go on a true decennial figure. Every 10 years, why, they take a census of the Territory, and that's what we are going on. We can't project what there is going to be. I can foresee many developments in the Fourth Division or the Third Division that will take place. You can't assume that there is going to be five greater urban areas and all the rest of Alaska is going to become wasteland. I think that your argument is completely invalid.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, is it permissible to ask questions and answer questions to keep this issue clear?

PRESIDENT EGAN: That is correct.

COOPER: Mr. Kilcher, there are two facts that have come out of the Apportionment Committee that by no stretch of the imagination can be amended on this floor. and that is, that you have two houses. One will be apportioned on population; and, one on geographical area. Those two facts have been established. That, in a sense, is apportionment. I don't care if Anchorage, tomorrow, has ten million people; the outlying areas and the balance of Alaska will have their representation by geographical. Now if Anchorage or Kenai or Circle City, or Point Barrow, or Klawock, tomorrow has 10 million people, then they rightfully are entitled to the entire 40 representatives in the house of representatives, because it's based on population and population only, but the balance of Alaska is not going to secede to the East or West or North or South. They will still have their representation in the senate, because it's based on geographical.

KILCHER: I agree, Mr. Cooper, I fully agree. I was only pointing out a possibility that this urban area may get their two shares in population based on representation in the lower house; however, on the other hand, we in the senate, as the proposal has it, are making compromises to population, also. I'm trying to show the picture -- the potential in the admitted extreme by pointing out that if one house is potentially almost exclusively

based on population. the other can hardly be based enough on area, and I'm afraid that the senate proposal -- I'm driving at the senate proposal with these figures (indicating) -- I'm afraid that the senate proposal is not quite enough based on area. I just submit that for now. I would like to let somebody else present their figures in other respects. We'll come back to that maybe later on.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I'd like to make one comment here. Mr. Kilcher is getting up into 50 years in the future. Possibly in the next 50 years there may be another constitutional convention and they'll bat it out all over again.

KILCHER: I'd like to answer that question, if I may?

PRESIDENT EGAN: Proceed, Mr. Kilcher.

KILCHER: Namely, as I said before, Mr. Hellenthal seems to have estimated the figures of the actual Alaskan population of all of Alaska and the districts in question as much as can be estimated with school enrollment figures. The estimate, I think, is within about two to five per cent, which is as accurate as we can have things with our fluctuating population, and I maintain that we should not stubbornly base an apportionment system on figures that we know now are quite inaccurate with the present. In other words, why should we create an apportionment problem already for certain in 1960, when we can possibly adjust certain figures now and delay the apportionment problem maybe a generation or one and a half generations, and that's what I'm driving at. And as far as the amendment goes, Mr. Harris, I don't want to allude to the failure of my amendment to pass, granting an automatic convention, but apportionment and an apportionment problem and the change of apportionment is one of the main reasons why history has shown that constitutional conventions are so hard to arrive at in the state where questions of the house and conflicting interests are involved. They are the main reasons why we might not get a new convention when we most need it.

PRESIDENT EGAN: Are there other questions to ask of the Committee? Mr. Cooper.

COOPER: Mr. President, I'd just like to say one thing. If within the next 50 years you don't have a constitutional convention, this plan will at least adopt five reapportionment committees which will meet and advise the governor in the changes that should take place or would be necessary for apportionment of Alaska.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I'd like to say just one thing in return to Mr. Kilcher's plan here, that I say again, that we are working on the 10-year census basis, and according to Mr. Kilcher's proposal, he's trying to infer to the delegates that we must have a reapportionment each year. I can't foresee in 1960, what is going to happen between now and then in the Territory of Alaska. I think that he was just begging the issue and trying to confuse it.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have an inquiry that I'd like to direct to the Chairman of the Committee.

PRESIDENT EGAN: If there is no objection, you may direct your inquiry, Mr. Johnson.

JOHNSON: Mr. Hellenthal, first let me say that I think your Committee has done a very excellent job, and I have this question in mind, however, and it isn't quite cleared up yet as far as I'm concerned. I understand that under our proposal now, the membership of the house is limited to 40 members. That is a constant figure, as I understand it, until changed by amendment of the constitution. Now the plan also contemplates the creation of 24 election districts from which the members of the house will be elected. That is correct, is it not, Mr. Hellenthal?

HELLENTHAL: Yes.

JOHNSON: So far as the initial election goes, at least, there will be one representative from each district, plus some additional representatives in the more populated districts, is that right?

HELLENTHAL: Correct.

JOHNSON: Is the plan that you have presented here designed to -- I know that the governor is given the right to change districts or rearrange them, but is it the thought or plan of the Committee that the number of districts would also remain constant or might that change up or down? That's election districts, that's what I'm talking about.

HELLENTHAL: Depending upon population increases or decreases and the method of creating further districts to keep in pace with those declines or growths set out in Section 2: "The Governor may further redistrict by the creation of two or more new districts from within the larger geographic socioeconomic areas of the State." and that means the entire statement. "or by otherwise changing the size and areas of districts, subject to the following limitations: the new election districts, so created..." and then follow the limiting factors.

JOHNSON: I understand that language. The thought occurred to me, however, or rather I was going to ask, has the Committee considered the possibility that there might be some way of keeping the number of election districts at 24, even though you might rearrange them from time to time, the number might remain constant if it I don't know whether that is possible actually, but --

HELLENTHAL: It's possible, and it has worked to the disadvantage of those states that have tried it, and it was because of that fixation that the method of equal proportions and apportionment were created. It was because of the great evil that arose from that situation and they would probably arise here in Alaska with increases in population or decreases, so for that reason you have this flexibility. That's the "Why" of apportionment and redistricting and equal proportionment. You will notice, perhaps it wasn't brought out, that in the modification of the method of equal proportions, there was a great concession made to the election districts to make it a little more

difficult for them to lose by population decreases. It was a concession to them because of their socio-economic areas, and it was a departure in that sense from a strictly population apportionment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I would like to explain something that probably hasn't come up. One reason why you figure this 24, it shows in this modification that this lesser group having no representation was deserving on a moral issue. Your major fraction base is, for true representation, would be on a house of

80. Your half of a quotient is 40 times two halves, which gives you 80. Why can't he hold down to 13 or whatever it is? Because you run into a moral issue. If in your section you allow one man to vote twice or three times or four times, that is illegal..it's a crime against suffrage. So indirectly you have the same thing because this representative for this 1,400 people has exactly the same voting power as this other group with 2,800, indirectly. So there is just so far you can go with this moral issue without creating a worse moral issue. Do you follow me, Mr. Johnson?

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. Gray, the other day you gave an illustration of a case of a 75 per cent error and 71 per cent error. Would you explain that, why you chose which one of those two, between the 75 and the 71?

BUCKALEW: Could Mr. Gray use the blackboard, Mr. President?

PRESIDENT EGAN: Would you care to, Mr. Gray?

GRAY: Sure. Anyone else that wishes to multiply with me may.

(Laughter by the Convention.)

PRESIDENT EGAN: The Convention will come to order.

(Mr. Gray then stationed himself before the blackboard with chalk in hand.)

GRAY: The example I used was Sitka and Juneau, and following the report we received from the census, Sitka had 4,148 and Juneau had 7,116. I think you will find those figures on that board there. Now what we have here, if we have one representative from Sitka and three from Juneau, Juneau has three times the representation as Sitka has, and they do not have twice as much population. Obviously unfair. So we give Sitka two representatives and Juneau two representatives. And now Sitka with only 4,000 population has the same representation as Juneau. Still unfair. And so the question is on differences, and getting to the fine point, which one is the most unfair. They are both unfair. Both propositions are unfair. It's a question of which has the greatest error. As long as you're handling mathematical figures and leaving the moral aspects out, it can be solved by mathematics, and take the difference and divide by the smaller, and you get a percentage of error. Take the other way around, and take the difference and divide by the smaller and you get your percentage of error, and of course, the assignment with the smaller error must therefore be the most fair distribution. Well, we'll go back and do it the other way first (indicating figures on blackboard) with this one, and that one -- bringing. this representation down to per representative, you have 4,148, and three into seven I'm ahead of you. And so you have 1,776. So 1,776 is the absolute error. Now we tried to tell you the other day that they found I could use absolute error, but we found out by advice from the experts that percentage of error is a finer distinction than the relative error. So we take the 1,776 and we divide it by the smaller number, and I get 74 per cent error.

HELLENTHAL: Mr. Gray, might you point out what you mean by that.

GRAY: This is the percentage of differences, if you wish the word.

HELLENTHAL: In other words that it might be off somewhat from true philosophical niceties, but it isn't mathematical error?

GRAY: No, it's an error in relative position. If these two figures were the same, it would be zero, and it's a question of relative fairness. If these two figures were the same, it

would be absolutely fair. As long as you have one representative representing 4,140 and one representative for 2,372, the difference in representation, the relative difference is one representative is representing 1,736 more than the other, and you just work it down to percentage. So if you establish the one at 74 per cent, now we'll use the other figures here (computing figures on blackboard). It gives a difference of 1,484. Take your 1,484 and divide it into these smaller numbers 2,074, and you come out with a 71 per cent difference. The other one was 74; this is 71. The error in representation was larger than the other, this being smaller. this must be the more nearly fair of the two.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I ask a question of Professor Gray?

PRESIDENT EGAN: You may, Mr. Londborg.

LONDBORG: Aren't the two numbers reversed? The 2,074 should be divided into the 1,484?

GRAY: Correct.

(Laughter by the Convention)

PRESIDENT EGAN: The Convention will come to order.

GRAY: The answer came out the same. The idea is to come up with the right answer no matter how it's done.

(Laughter by the Convention)

PRESIDENT EGAN: The Convention will come to order. Are there other questions? Mr. Davis.

DAVIS: Mr. President, just so it will be clear now, if I understand what Mr. Gray has just said, on the sheets which have been passed out, on District No. 5 should now be changed to 2, and District No. 4 should also be changed to 2 instead of as they are in the sheet.

GRAY: That would be taken care of at a regular amendment, and the first system, as set out there was the Benton system, which was the greatest major fraction. and that is correct under the Benton system the old discarded system. Now in applying this equal proportion method to the same figure, they all came out the same, with this one exception. This is the one exception, otherwise, the Benton system and the equal proportion system would give you the same answer.

DAVIS: I understand that, but that -- but the actual figures --

GRAY: The actual figures here are as we reported it, and when the amendment comes up, we'll amend the thing so it will appear in the record as why it was amended.

PRESIDENT EGAN: Are there other questions to be asked of the Committee? Mr. Hurley.

HURLEY: Mr. President, it's going to be very difficult for me to ask a question when I say what I have to say, but I will attempt to. I refer back to a little while ago to remarks by Mr. Kilcher. The figures he put on the board which were alluded to as being somewhat absurd. I don't think the figures were absurd at all; and neither do I think that they necessarily sink the particular proposal as brought out here. I think the differences can be reconciled. Now they can't be reconciled morally and they can't be reconciled mathematically, but practically. as times goes on and our population increases -- I'll come to my question -- is it not reasonable to believe that the apportionment board that you have set up and the pressure of the growing area will have to make some compensations for this thing? That situation could happen that he showed. In fact, there is a tendency now that if it is carried on, it would happen, but yet. at the same time, we can't devise a system that is going to work forever. And I think the thing that we should keep in mind is that as these situations come up they will have to be met by the best minds that are around. If it takes a constitutional amendment, then that's what it's going to take.

PRESIDENT EGAN: Are there any other questions? Mr. Taylor.

TAYLOR: Mr. President, I'd like to ask Mr. Hellenthal if he had explored any other method of having the apportionment commission appointed. My viewpoint of it is that the governor, who is the head of the executive branch of the government, chooses his own board and then makes a reapportionment as the commission reports to him. Why did you necessarily select the governor with his own commission? Had you thought of any other method of commissions?

HELLENTHAL: Yes, Mr. Taylor. Great thought was given by the Committee to other methods. It seems that historically -- well, first of all in the history of the nation, the legislatures met and did their own apportionment and reapportionment, and redistricting. That method was a total failure. and it has been a failure in every state of the Union. So various modifications crept in in order to assure that the reapportionment will be made and that there will not be neglect, and that rotten boroughs won't creep up, and that irrepresentative government develop. Now in the State of Illinois they even went so far as to provide that if the redistricting and reapportionment was not made forthwith by the legislature, that every legislator would be chosen at large until the reapportionment was completed. A drastic, drastic step, but that's the

only way they felt that it could be forced. Now a lot of it comes from the principle that you can't mandamus the legislature, and in many states they just sit there. Washington was a good example. They just sat back and figuratively thumbed their noses at the people, and the reason for it was that they just couldn't resist selfishness, and the enormous pressure that was brought on them by their constituents, and a deplorable situation developed. In Washington, as I stated, it took the initiative to reapportion, and only after countless law suits and immense harm to the people. Now there are other plans. There is no end of variations of plans that can be devised for the reapportionment with the mandamus feature, and you could have variance where a board can be picked -- three from the legislature, three nominated by the judicial council, if you want, three of them nominated by some other group of civilians, some appointed by the governor, and get a good cross-section, and they could have the authority themselves to make the redistricting and reapportionment. There is no end to it, but the best thought seemed to indicate that the people would be best helped if it were an executive function. Now the legislature has a powerful check. If two-thirds of them don't like it, they can call for a constitutional convention -- or rather a constitutional amendment. There are lots of things the legislature can do to indicate their protest, and if their protests are valid,

there are lots of things they can do to make their point. But it is the inaction of the legislature, as testified to by the universal history of the 48 states, that we're trying to overcome.

TAYLOR: Did the Committee realize that at the time they selected the governor and his commission of five, that the commission, or constitution would confer upon the governor a law-making power for years and years to come until there would be a constitutional convention, or the constitution be changed?

HELLENTHAL: Well, as I said, I think the governor is subject to many checks. Of course, in my mind the most powerful check is the check of public opinion, and I can't imagine a governor just disregarding the constitution, and there are so many other checks -- his re-election is another check, his recall. It wouldn't amount to address, but you could impeach the man. if he just flagrantly disregarded your constitution. I don't think he will.

TAYLOR: One other question: This is not too important, except we happen to be looking at it from the law viewpoint. Why in this proposed article, did you confer upon the supreme court of the State of Alaska original jurisdiction to try disputes as to reapportioning?

HELLENTHAL: That language came identically from the language of the Hawaii Constitution which was recently adopted, and we felt that the matter of such supreme importance as this should

be conferred on the supreme court and that they should be given original jurisdiction. There might be a better court.

TAYLOR: Do you not believe that the superior court could be more available to any disgruntled voter living in these areas which have been reapportioned and they thought it was wrong to bring it in the district court or superior court and allow the supreme court of Alaska to be the appellate court in case anybody was disgruntled with the action of the district court?

HELLENTHAL: Of course their review would be confined to review of legal matters and not facts. Perhaps it was thought that the supreme court was a bit more detached than a superior court.

TAYLOR: But if the district courts abuse their discretion, you can always raise that in the appellate court.

HELLENTHAL: But as you know and I know as lawyers, to raise the question of abusive discretion you have got to be awfully right.

TAYLOR: Could you not in your proposal put it that the superior court should have original jurisdiction and that the supreme court would be the appellate court and also could find as to the facts?

HELLENTHAL: Try it all over again? Sure. But I think it would be a bit expensive.

TAYLOR: But try it on the record.

HELLENTHAL: It would delay things. but it would give you two courts instead of one.

TAYLOR: Mr. Hellenthal, as Chairman of the Committee, I think that you and your committee have done a wonderful job. There are just a few of those little, minor things that could be ironed out and should not take us very long. I feel now, from the explanations that you and Mr. Gray and other members of the Committee made, that I believe I would be willing, at the present time, with a few minor changes along the lines that I thought of or that have come up. I'd be willing to adopt this proposal in very short order.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President. I'd like to ask a question of Mr. Gray. I'd like to pursue this matter of the ability of the governor, with advice of the board, to subdivide election districts. Now if I'm correct. in none of the 24 election districts as established by the Committee, is there more than one center of population, with a population greater than the quotient. Each election district just contains one major center of population or more?

GRAY: I believe so, in the areas that I know. What happens in that Anchorage area? I see they have a population of 23,210. I couldn't answer your question. I would refer that to Mr. Hellenthal.

WHITE: That isn't my main point. I'm on the way to it. Taking that for granted at the moment, I would assume that this provision for subdividing would be to allow for cases that might arise where there are two major centers of population within an election district, each of which might grow to have more than a full quotient, let's say in the case of Haines-Skagway, or Petersburg-Wrangell?

GRAY: I would assume that is the point, because if they have a quotient, they are entitled to a representative; that's the basis of the whole idea.

WHITE: Now my question is, would it hurt the provision for subdividing these districts by saying that such subdivision would only take place in the case of there being two or more major centers of population with a population greater than the full quotient?

GRAY: Well, that's a restrictive clause. You restrict a population area well, take an area like Haines for instance, back in my country. Now Haines by itself would have 2,724, the rest of the district the nonurban area would have the remaining quotient. If you have to have two populated cities, you can't divide that district because you would have just one population center just spread out. Now the point is, could you isolate the populated areas from the other districts? Under the present program you could.

WHITE: I should assume that it was the Committee's intent to allow that kind of subdivision to take place?

GRAY: Speaking for myself. I understand that that is true.

WHITE: Now would it be normal procedure under this subdividing provision to subdivide an area, let's say like Election District 15. for example, in which there would be a number of smaller population centers, none of which have a major quotient?

GRAY: Yes, that's quite true.

WHITE: Is that also what you wish to make possible?

GRAY: In my opinion it was. If you'll look on the map to your Alaskan peninsula, in the Aleutian Islands you have a district there that runs 1,400 miles. In that one district you could have 2,700 people, and 1,400 miles from the population

of Attu Island, although there is no one center of population; and in that case -- that happens to be an extreme case -- but in that case, as pointed out, you would divide the section and have the same socio-economic areas as a compact unit and have the quotient creating a district.

HELLENTHAL: How many could you get, or could the board get if they chose to get the maximum, say in that District 15. or which is Bristol Bay, or 14, which is the Aleutians?

GRAY: Well, just under the general practice on account of your population, and using your quotient, the number of districts that you will create under any group will run between one-third and one-half of your districts only with that full quotient. Now you can possibly see, like Mr. Kilcher did, on extremes with figures you can run any way you wish. But in our experimental work on this we found that the total districts, like you have in District No. 1 -- I believe you have 1, 2, 3, 4, 5, 6, 7 -- you have 14 complete districts out of 24 with a good representative example; and that's a good reason why you could presuppose, and all this redistricting that will come up in 1960 and 1970 will run about the same way with your redistricting.

WHITE: Let's say we have a legislative district that is fairly homogeneous, and with socio-geographic factors, could you still, in the absence of any major population centers whatsoever within that district, take a line and divide it down the middle under this provision for subdividing so long as you wound up with the major quotient in each house?

GRAY: Well, as pointed out here, a newly formed district, you have these four provisions and the redistricting board. You would have to follow the requirements in the constitution.

WHITE: If you got an egg and cut it in half, you still got the egg in both halves.

HELLENTHAL: The point is, it would be impossible to arbitrarily cut a line down through any election district, because it would violate the very clear principle that the new election districts must each be compact. It would violate compactness; secondly, it would violate the principle that they should be socioeconomic areas. It would be only the most remote sort of interplanetary coincidence that would permit an exact line to be drawn down through the heart to coincide with socio-economic boundaries. It just doesn't happen.

WHITE: My purpose was accomplished, Mr. Hellenthal, by getting that on the record. One more question, taking the case of Fairbanks area, would it be suitable grounds to subdivide here between Slaterville, let's say, outside of the city and Fairbanks, inside the city?

GRAY: In my opinion, no. That was brought up whether we should isolate the city, and that was clearly thought out and discarded. And it may be my background, but I don't believe the isolating of the city, the municipality, appears in this form; and it was my understanding in the discussion that we discarded the isolation of the municipality because the fringe people are the part and parcel, economically, of your city.

WHITE: That would be my understanding.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have a question of Mr. Hellenthal. What is the advantage of working through the governor to reapportion rather than having the board of reapportionment doing it directly itself?

HELLENTHAL: It was felt that it was primarily an executive function.

SUNDBORG: Would it not still be so even if they were a part of the executive branch of the governor, even though appointed by the governor?

HELLENTHAL: It is conceivable; it could be worked that way.

SUNDBORG: Is there some advantage to saying that they shall report to the governor and he shall do it?

HELLENTHAL: Well, yes, in a sense it keeps it under the executive arm of the government; it does away with a permanent board. It was felt that it was a proper executive function as contrasted to the legislative, although I think the objections would be greater to turning it over as a legislative function than to having it as a board function.

SUNDBORG: Well, I wasn't suggesting that it be turned over to the legislature, but why bring the governor into this, except to say that he shall appoint the board?

HELLENTHAL: Possible. You might feel that the governor should appoint the board. But it's nice to have one man, it would seem to me, I'm trying to think of the recommendation, that one man be ultimately responsible and that the ultimate responsibility would be placed there.

SUNDBORG: Now as I read this, although it says that the board shall act in an advisory capacity to the governor, actually he has no discretion, does he, except to carry into effect whatever plans of reapportionment that the board of reapportionment submits to him?

HELLENTHAL: I think that the governor does have discretion, and.

as I said before, he could, I believe, theoretically, disregard the advice of his board. I think he could, but he would have to answer to the courts because of any error in redistricting is subject to review; any departure from the limitations imposed in the constitution. Theoretically, he'd have a discretion, but he'd have that mandamus as a check; public opinion as a check; recall, and so on as I stated before.

SUNDBORG: The language on page 4, the second paragraph of Section 5 says: "The board shall submit to the governor a plan..."

HELLENTHAL: Yes.

SUNDBORG: And the governor shall "...issue a proclamation showing the results of such reapportionment or redistricting, which shall be effective..." Now where he has any discretion in there, I don't see.

HELLENTHAL: Well, we think in the entire language it clearly vests discretion in him. It says, Section 5, line 7: "...and act in an advisory capacity to him."

SUNDBORG: Advise him what to do, I see, but I would say under the second part of that section he has no discretion but to follow their advice.

HELLENTHAL: We felt entirely different on that. This use of the word "advisory" made it purely an advisory board, and we wanted the plan though to be submitted in writing so that if the governor did go off, there would be a record of what he went off from, and we could show the people could show where he departed from the considered judgment of this advisory board. You will notice, too, there is a provision made for the employment of assistants. Now the reason for that is that the Census Bureau has a staff set up in a special agency in the Census Department with specialists who make their livelihood of applying the method of equal proportions and they send them to areas where they are desired; and we want to be sure that these services will be available to the new state.

SUNDBORG: What advantage is there to permit the governor to depart from the plan of apportionment which this nonpartisan board, which has studied it, recommends to him?

HELLENTHAL: Very.very little, but he might think of something they didn't think of.

SUNDBORG: I'm afraid he would, and that's why I think it should be done by the board, or else to allow the governor no discretion. When an election district collapses, does it lose its identity?

HELLENTHAL: No, it's joined with the next adjacent district, and the people are members of that district until their population grows again so that they can once again be represented.

SUNDBORG: Until such time as they again get enough population, they would automatically become an election district?

HELLENTHAL: Yes. Here it is here: "Should the total civilian," reading from lines 2, 3 and 4 from page 2, "population within any election district fall below one-half of the quotient, such election district shall be attached to the election district adjoining it having the least civilian population and the reapportionment shall be determined for the new district as provided above." So no person will ever be disenfranchised.

SUNDBORG: I didn't ask that, I realize that no person is ever disenfranchised but say, what if Election District No. 22 falls below the required number and collapses and is attached to Election District No. 24, is it still an Election District No. 22 which, once it gets one-half of the quotient automatically comes back in?

HELLENTHAL: No, because you can't tell what will happen. It loses its identity, in other words, and it should properly lose its identity. A good example I think that is near to us all is Big Delta. Say Big Delta might possibly, as a little economy is growing there, people are gathering down there and from my own observation, it might grow in population so that it could go over the hurdle and be a separate election district. It is a very good example of a separate socio-economic district within a greater one. It is in its own little watershed area, which in turn is within a larger watershed area. Now Big Delta might grow and then fail. Tok might grow up in the meantime and the emphasis would be shifted to Tok which is still in the greater watershed area, then it would spring in and it might rise, or perhaps fall. That is up to the redistricting board, according to those four or five principles set out in Section 2.

SUNDBORG: Did the Committee give thought or consideration to the possibility of providing that when one of these election districts collapses, instead of being attached to the one adjoining it or having the least population, that it would be attached to the other part making up the senate district?

HELLENTHAL: May I defer answering that for a minute, because I may have made a mistake.

COOPER: An election district does not lose its identity; it is still a half of the senatorial district and as such has its definite boundaries and perimeters. So it's still an election district even though it doesn't have the population representation.

SUNDBORG: I see, and the governor could not give it back under

the provision where the governor can create districts. The right to elect a representative or be a representative or election district, it would have to reach the full quotient?

COOPER: Yes.

SUNDBORG: Mr. Hellenthal, did the Committee consider, or is there any merit in the suggestion that when a district collapses it be attached, not to whatever one of four or five contiguous areas which has the smallest population, but to the one within the same senate district?

HELLENTHAL: Which one?

SUNDBORG: Well, your election --

HELLENTHAL: You mean within the first step process?

SUNDBORG: Yes.

HELLENTHAL: Yes, sir, and in every instance it would work out exactly that way.

SUNDBORG: Wouldn't it make it simpler from the standpoint of distributing ballots and so on to have it in the same senate district than in one across a senate line?

HELLENTHAL: I think it's just a choice of language. I think the same result follows in any case.

SUNDBORG: Except, that say 1 and together now would elect a senator, wouldn't they?

HELLENTHAL: Yes, sir.

SUNDBORG: What if number 2 -- for the sake of argument -- collapses and you attach it to 3, because it is the one adjoining it which has the smallest number.

HELLENTHAL: Yes.

SUNDBORG: Then you would have the situation where 1 would be electing some representatives and 2 and 3 together would be electing some representatives, but No. 1 and 2, which is not in the same senate district -- wait a minute -- 2 and 3 which are not in the same senate district are electing the same representatives.

HELLENTHAL: The area concept would prevail there. I think that was the point Mr. Cooper brought out that I didn't bring out too clearly.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I think Mr. Sundborg's assumption there is correct. We went over that in the Committee, and they would be joined with the contiguous areas within the senate area.

PRESIDENT EGAN: The Chair would like to bring to the attention of the delegates that the hour of the arrival of the bus is drawing near, and if it is the desire of the delegates, we could continue this at this point in the morning -- this discussion about the proposal, and finish this before we proceed with any proposed amendments to this article. Is that the feeling of the delegates? Mr. Barr.

BARR: Mr. President, I do have two or three simple questions I'd like to ask, but I also want to go home. If I'll be given an opportunity to ask them in the morning, I'll make the motion to adjourn.

PRESIDENT EGAN: There is evidently general consent that we proceed in that manner -- no amendments will be offered until all delegates have had ample opportunity to have asked their questions of the committee. Are there committee announcements? Mrs. Sweeney.

SWEENEY: Mr. President, I would like to ask Mr. Coghill of the Administration Committee as to whether there was a decision on working tomorrow night?

COGHILL: No, Mrs. Sweeney, there was no decision. I thought we would bring that up on the floor tomorrow morning.

PRESIDENT EGAN: Mr. Barr.

BARR: I move that we adjourn until 9 o'clock tomorrow morning.

UNIDENTIFIED DELEGATE: Second the motion.

PRESIDENT EGAN: Are there committee announcements before we actually adjourn? If there is no objection, the Convention stands adjourned until 9 o'clock tomorrow morning.