

ALASKA CONSTITUTIONAL CONVENTION

January 16, 1956

FIFTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Purviance of the Methodist Church. Reverend Purviance will give our daily invocation.

REVEREND PURVIANCE: Our Father and our God, we praise Thy Name that Thou has seen fit to spare us to be together once again. We come now in humility, asking for Thy wisdom, Thy guiding hand upon us, particularly now during these final days of this session that we may be prayerful and careful and that Thou may guide every thought and every motive. For we ask these things in the Master's Name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

HELLENTHAL: Mr. Harris and Mr. McLaughlin are both here but they are temporarily occupied with other matters.

PRESIDENT EGAN: The Chief Clerk will please show they are here. Mr. Buckalew is present.

CHIEF CLERK: All members present.

PRESIDENT EGAN: A quorum is present. Does the special Committee to read the journal have a report to make at this time? If not, we will hold the report in abeyance until later in the day. Are there any petitions, memorials or communications from outside the Convention? The Chief Clerk will please read the communications.

(The Chief Clerk read a telegram from Senator Marcus F. Jensen of Douglas requesting the separation of the resources of game and fish as worded in the proposal made by the Territorial Sportsmen, Inc.)

PRESIDENT EGAN: The communication will be referred to the Committee on Resources. Are there other communications? If not, are there reports of standing committees? Are there reports of select committees?

SUNDBORG: Mr. President, I would like to announce a meeting of the Committee on Style and Drafting for the morning recess at the rear of the gallery.

PRESIDENT EGAN: Mr. Sundborg announces a meeting of the Committee on Style and Drafting immediately upon the morning recess at 10:30. Are there other committee announcements? Mr. Sundborg.

SUNDBORG: Mr. President, I notice that just entering the chamber is a man whom we have summoned from Louisiana, Kimbrough Owen, who is going to assist the Style and Drafting Committee throughout the balance of the Convention. I would like to ask unanimous consent that he be introduced to the body at this time.

PRESIDENT EGAN: Mr. Owen, we would be appreciative if you could come forward and present a few remarks to the delegates. We are happy to have you here. (Applause)

MR. OWEN: Mr. President and delegates, since brevity seems to be one of the characteristics of this Convention, I would just like to say I am very happy to be here, and I am very profoundly impressed with the draft I have seen and I hope I can be of service. Thank you.

PRESIDENT EGAN: Thank you, Mr. Owen. (Applause) Mr. Rosswog.

ROSSWOG: Mr. Chairman, I have a report by the Style and Drafting Committee. The Local Government Committee worked all yesterday on their proposal and we hope to have the services of Mr. Owen for at least a short time, as he is experienced in local government.

PRESIDENT EGAN: Thank you, Mr. Rosswog, and we are sure you can obtain the services of Mr. Owen. Are there any motions or resolutions to come before us at this time? Is there any unfinished business? Under unfinished business we have before us -- Mr. Hilscher.

HILSCHER: Mr. President, I should like to take the time of the Convention for a few minutes to discuss a matter which I think is pretty important to us in the over-all view of the job we have to do.

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

HILSCHER: There has been no publicity on the Constitutional Convention on a national basis that we have heard of as yet, and there have been letters written to members of the Convention from friends in the states stating that they are interested in Alaska and the Constitutional Convention but unless they had heard from them they would not know that the Alaska Constitutional Convention was in existence. We have in this room representatives from 19 states and six foreign countries. I should like to suggest, Mr. President, that before too long the President of this Convention request or arrange for a committee to possibly meet with the Statehood Committee for the purpose of working out a publicity and public relations campaign. I can see where a photograph taken right at work here and a story with it should go to every hometown paper or every place of origin. Now we have five from Minnesota. It might be pretty important to the passage of the Alaska statehood bill, if and when it is presented to Congress, that we have the support of the two senators and the congressmen from Minnesota.

I can readily see where if one of our lady delegates who comes from Minnesota, if her picture appeared in the hometown paper, and there was quite a write-up, and the fact that she is the National Democratic Committeewoman from Alaska, it could create quite a bit of interest in her hometown. I also believe all of these should also be represented in their professional publications. I can see where photographs should go to the American Bar Association and to their publications, to the American Mining Journal. Mr. Harris is in the hotel business, there are a half-dozen hotel publications which would be very pleased to have a picture of Mr. Harris, all of which is in the nature of national publicity, to get the story out that Alaska is doing something about the constitution. Something should also be done about a poster contest in the schools on "Ratification of the Constitution" or "Understand the Constitution". Then if and when the people of Alaska decide to ratify the constitution a definite method should be worked out for the delivery of the constitution to the President and to the Congress. We have an end product to sell and there is just as much salesmanship involved in selling statehood or selling our constitution as there is in a pair of shoes or real estate or any other product. Therefore, Mr. President, I feel it is quite incumbent upon us to be aware of this fact and to decide whether or not we are going to do something about it or whether the Statehood Committee is going to do something about it, and I would like very much, Mr. President, to suggest this matter be taken under consideration by you. I should imagine that our Administration Committee would probably be a logical committee, or certain members, and I know there are several people in our Convention who are acquainted with publicity and such matters and I would strongly urge that definite action be taken on this in the very near future. I understand the Statehood Committee is going to hold a meeting next Sunday. Well, perhaps we can find out whether or not the Statehood Committee is going to do anything about it, but it certainly should be done with our cooperation and our assistance, or at least we should be a party to it. I don't know whether it is the function of the Statehood Committee, but something should be done.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Correction on meeting next Sunday. It is a meeting of the Executive Committee of the Statehood Committee, and not the Statehood Committee as a whole. I was under the impression that the Rules Committee had outlined this particular thing as one of the manifest and many duties of the Secretary of the Convention. If I am wrong I stand corrected.

PRESIDENT EGAN: If there is no further discussion we will take the matter under consideration. We have before us Committee Proposal No. 10/a. Was there a pending amendment? Mrs. Hermann.

HERMANN: Mr. President, I want to speak on a matter of privilege

on a matter that is far removed from Convention business.

PRESIDENT EGAN: Mrs. Hermann, if there is no objection.

(Mrs. Hermann spoke on a matter of privilege.)

PRESIDENT EGAN: Thank you, Mrs. Hermann. Did we have two reconsiderations of amendments that had been adopted, pending or was there one? The Chair only brings it up at this time inasmuch as it might be best if we consider any reconsiderations on this proposal as quickly as we can. That is, it would be up to the maker of the motion actually, but were there two reconsiderations or one?

CHIEF CLERK: One, I think.

PRESIDENT EGAN: If the Chair remembers it, Mr. Kilcher I think reconsidered on the last proposed amendment, but I had the feeling there had been another notice given during the day. If not, we will continue. Mr. Victor Rivers.

V. RIVERS: I have an amendment.

PRESIDENT EGAN: You have an amendment by the Committee?

V. RIVERS: By a minority group of the Committee, myself and Mr. Harris.

PRESIDENT EGAN: Mr. Victor Rivers, you may present your proposed amendment. The Chief Clerk may present the proposed amendment.

CHIEF CLERK: "After Section 14, page 7 of Committee Proposal No. 10/a, insert a new section as follows: 'Section 15.

The Attorney General shall be appointed by the Governor from two or more qualified persons nominated in the same manner as judges by the judicial council. He shall have been admitted to practice law in the State and shall have the other qualifications prescribed herein for heads of principal departments and shall be subject to approval by the Legislature in a similar manner.

The Attorney General may be removed by the Governor with the consent and approval of both houses of the Legislature meeting jointly.' Renumber successive sections to conform to the above insertion."

V. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the amendment. Are there copies available for the delegates? Is there a second to Mr. Rivers' motion?

HARRIS: I second the motion.

PRESIDENT EGAN: Mr. Harris seconds the motion. The matter is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, this matter of the office of attorney general came up for a good deal of discussion in connection with the strong executive and in connection with the matter of having some screening for the man who would be the attorney general. Some of the Committee felt that it would interfere with the strength of the executive. Others of the Committee felt they wanted to see the attorney general elective and not removable by the governor. It seemed that the only thing that was of main concern to a great many of us was that while we recognize the value of the strong executive, we are not naive enough to think that the governor who is elected will not have certain obligations, commitments, endorsements to meet when he goes into office. We realize that on all the other department heads there may have to be on his part some compromise with his desires under this plan as we have it. We did, however, want to try to eliminate any matter of the return favors or endorsements or obligations to the man who he appointed as attorney general. We are trying to remove that particular office by a screening process we have set up here, so the man who went in there, his appointment would be based on merit and not on any other consideration. As you will note, we have recommended that the attorney general be screened by the Legislative Council in regard to his qualifications, that two or more be screened in accordance with the requirements to fill the job satisfactorily both on the basis of qualifications and on the basis of the governor's desires. The only intent in this is that the attorney general shall be one who is appointed not from the point of view of any obligations from the governor to him, and also the other intent is that the attorney general cannot be removed by the governor without also the approval of the legislature meeting jointly as they approved the appointment of the attorney general at the time he was actually put into office. He would be removed in the same manner, and by that manner only. There has been a good deal said here about diluting the power of the strong executive. I am of the opinion that perhaps a governor going into office where he had to make a large number of appointments, where he had been supported in his campaigns by many individuals who might be men of high degree of competence or average competence, I would be of an opinion that a governor in that position would probably welcome the possibility of the chance of appointing one office in such a manner that he would not have to repay any obligations or indebtedness or favors in that particular appointment. I for one feel the attorney general's office should have removed from it the need for making any concession to competence or qualifications because of political support on the part of the applicant to the governor in seeking election. That is my opinion and I feel there is sound justification for that opinion. I realize there are many divergent opinions here on that subject.

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

BUCKALEW: Mr. President, from the beginning I would like to state that I don't like this proposal. The first objection I see is that we are shoving off on the judicial council a function that is not one of their duties. The judicial council was created by Mr. McLaughlin's department. He set up a judiciary. Now we are going to let Mr. McLaughlin's department select an attorney general. Not only does the attorney general have to be approved by the judicial council, the attorney general then has to be approved by the legislature. If the governor wants to remove him he has to get the consent of the legislature. Now, I don't think this matter would even have come up if we had not discovered that the initiative and referendum article referred to the attorney general. The reason I bring that up is that I think Mr. Sundborg had an excellent suggestion that we just insert the words "secretary of state". That is probably one of his functions. That is the only reason I think this business came up. We decided yesterday that we were not going to elect the attorney general. The argument put up by the Committee was they wanted to have a strong executive and today they are going to water it down a little. I think we ought to be consistent and vote this amendment down.

V. RIVERS: I rise to a point of order. I stated this matter had been discussed some time ago in Committee. It did not arise yesterday. This amendment was prepared during the time of that discussion. I also object to referring to any department of this constitution as being the department of some one individual. I don't believe it is either Mr. McLaughlin's or mine or anybody else's; it is the constitution of all the people of Alaska.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I was going to correct Mr. Buckalew, but since Mr. Rivers has already done so, I will only state that I would favor this amendment. We talked about this quite a bit in Committee, and it is a check on the governor. It makes a bit of difference when the attorney general's word becomes law. It actually is law, unless it is disputed in court and found to be not exactly as it is supposed to be, then it is used as law. Therefore, we feel the attorney general should be a qualified man and in order to insure that his qualifications are up to par we needed some type of screening process. Now, we did not screen the man because we wanted to connect him with the judicial department as Mr. Buckalew suggests. The only reason for using the judicial council we feel is that the judicial council is qualified to screen the attorney general. Therefore, that was the reason for bringing up this amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I agree with Mr. Victor Rivers that the judicial

council is not the idea that it was limited to one person; it was the product of the Judiciary Committee's combined thought. I am personally opposed to such a method of selection. Within my knowledge there is only one equivalent method of selection of the attorney general, and that is probably in New Hampshire where the attorney general is selected by the justices of the supreme court. I believe that Mr. Buckalew is right in that he says that the attorney general is not otherwise mentioned in the constitution except in the initiative and referendum, and if you can recall, the only reason he was mentioned in the article on the initiative and referendum was originally they had a proposal as it came out of committee, my recollection is, that the 10 qualified voters could submit a proposition to the attorney general, and secure his opinion as to its legality. That is why the attorney general was mentioned. We chopped the portion requiring an opinion of legality from the attorney general, we chopped the portion, if I recall, requiring review of his opinion, and in substance what we did is we made it a function as it stands now, the true function of the secretary of state. The attorney general is in there by happenstance and no other reason. Yesterday we determined that the attorney general should not be elected and implicitly what we determined was it should be within the discretion of the governor subject possibly to confirmation that the governor alone in his discretion would select the attorney general and would be responsible for him. The attorney general, apparently, under the concept that we have implicitly accepted, is an attorney largely for the executive department. In any event, he is a political appointee, he is an executive appointee. I don't believe that we should be putting him through a means test and running him in substance through the judicial council. Under such circumstances, the governor may well say when the attorney general proves unsatisfactory to the electorate at large, the governor should have the direct responsibility, he should not be able to evade it by saying, "It was not my selection." I am opposed to it. The judicial council was designed in the constitution deliberately for one reason. That was for the selection of the justices of the superior and supreme courts, when in substance we are now utilizing them to provide a rather cathartic attorney general. I think that this is a mere compromise, it is not a majority opinion of the Committee on the executive and certainly it has not been considered by the Judiciary Committee. I cannot speak for them, but I feel sure that the majority would feel the same way. Our choice is not a compromise. He is either elected or he is appointed. If he is appointive and if he is going to be one of the consorts of the governor and one of his confidants, he should be selected directly by the governor and the governor should be responsible. If we accept this, then in premise we should accept a screening of every other public official appointed by the governor in his cabinet. I believe the attorney general, if he has to be mentioned, and I don't think it necessary, I don't think he should be embodied in the constitution. The attorney general should be like the attorney general of the

United States, appointed by the executive and the executive is responsible for him. This is, frankly, I think on its face, a compromise measure and I believe the attorney general is without our sphere, and in substance should not even be mentioned in the constitution, let alone nominated by the judicial council.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I ask a question of Mr. McLaughlin? Would we gather from your statements that the judicial council is limited only in its purpose to the selection or the recommendation of judges?

MCLAUGHLIN: That is not so, Mr. Rivers, because we have a specific provision in there saying that they shall perform such other duties as are provided by law. I am sure it was the intent of the Convention that their functions would be limited to the judicial. In fact, I think by error you did remark that the attorney general was selected by the Legislative Council when you supported this matter, but I would oppose it just as I would oppose the judicial council selecting the sites of the court houses. I think they are participating now in the executive functions of government and I believe the judicial council should be limited as it has been historically to judicial affairs and not to executive affairs.

V. RIVERS: Do you agree with the judicial council in the matter of screening this man as to qualifications, would be doing the same thing as if he were screening a judge? Isn't it for qualifications and to remove the judge from direct political election or appointment that we put up the judicial council? Isn't the process of screening identical in the two cases?

MCLAUGHLIN: Yes, the process of screening is identical except for this one thing. A judge is supposed to be dispassionate. He is not supposed to be acceptable to the people who appear before him. In the case of the attorney general the attorney general will have a client-attorney relationship to the governor and frankly I believe the governor should have wider choice and discretion. It is like selecting the presidential physician by vote of a selection board. The relationship is something that is intimate, and there is an intimacy of relationship that does not exist between the judiciary and the general public. We are selecting an attorney for the governor and saying, that's it, without regard to personality or anything of the sort.

V. RIVERS: I would like to ask another question, and that is, do you think the attorney general should also be removable at will by the governor at any time after he has been appointed and confirmed?

MCLAUGHLIN: I think that is so, yes.

V. RIVERS: Do you think the attorney general represents the people of the Territory in the matter of his interpretations of law, or does he represent the administration? I realize the interests at most times are coincidental and the same, but at times when there is any divergence would you also say he represents the people?

MCLAUGHLIN: Frankly, I think the attorney general represents the executive department of the government.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I cannot follow the reasoning either of Mr. McLaughlin or Mr. Buckalew. I think the screening set up in this proposed amendment to Article 10/a is I think a happy choice. It may be a compromise, but I think it is a very fine compromise, in between the two propositions that have been advanced in choosing the attorney general. I believe the judicial council is the proper body to, what you call, screen the attorney general. The duties if given to the judicial council will be the same as they are in regard to the justices of the supreme court and the judges of the superior court. It is to select a competent lawyer to fill the office of attorney general just as they are duty bound to select the best men they can for judicial office. The office of attorney general is a very important office. There has been numerous times in the history of the Territory of Alaska when we have had an extremely weak attorney general and the Territory has suffered by it. If we have a capable attorney general I think we will be a great deal better off if the attorney general is vigorous and follows out the instructions of the governor in fulfilling his office. I feel the attorney general is only, his duties should primarily be the attorney for the executive branch of the state government. In the past there has been times that the attorney general has had to be the legal officer for the executive, Legislative Council, and the counsel for all departments of the Territory. That was extremely a difficult position. I know Mr. Rivers had it for a number of years and he can explain, perhaps better than I can, the difficulties of filling of positions such as that, but I believe primarily the attorney general is the attorney for the governor and the department heads, the departments established by this constitution and who would be under the direct supervision of the governor. I feel that some provision maybe should be made here or the legislature should make one for the employment of a legislative counsel during the sessions of the legislature, and so the attorney general would not have to take a part in that particular matter. I feel that the adoption of this amendment with the governor being given the right to remove the attorney general without the consent of the legislature would be a happy choice.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it seems to me from the arguments

we have heard that probably we are going at this backwards. The arguments have been as to how we should select an attorney general. Now it is my thought on the basis of the bill that we have here that probably what we want to decide is whether we want a constitutional attorney general or not. It seems to me on the executive department, as we have outlined it here so far, that we probably don't want a constitutional attorney general at all; that that matter should be left to the legislature as to whether we do or don't and to what his powers are when the legislature decides to set up an attorney general, and accordingly it seems to me pointless to discuss as to how the attorney general is to be selected. If it is wise in the view of the legislature when they set up an attorney general that he should be screened by the judicial council, these arguments could be made at that time, but at the minute we have not mentioned an attorney general, and it seems to me that the executive department is going to be a whole lot more what the Committee had in mind if we don't set up an attorney general as such in this article. Now I realize that if we don't set up an attorney general we are going to have to do something to the initiative, but that is a different problem and no problem from my standpoint.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: It has been said that perhaps we could omit mentioning an attorney general in this article and that the secretary of state could take over the function of the attorney general with regard to the initiative and referendum. In the initiative and referendum article we said that the initiative should consist of a petition with a proposed bill that the sponsors wished to have made into law and that the attorney general would scrutinize it as to sufficiency for form and the attorney general would condense the matter for appropriate petition heading so that the people that sign it would have an adequate draft as to what they are signing. Afterwards the attorney general shall prepare the ballot title, assuming that enough signatures were obtained and that this bill were to go before the voters. It is a little difficult I think for the secretary of state to engage in all of those legalities, and I think as far as the initiative and referendum is concerned, we ought to have that in the hands of the attorney general just as the initiative and referendum article suggests. However, I see difficulties with this proposed amendment. The judges are banned from politics. They are picked on an absolutely nonpartisan basis. The attorney general presumably should be a member of the same party as the governor. The attorney general, if he is a member of the same party, as attorney general, would take the normal part in politics, but if he is picked on a nonpartisan basis as the judges are, then we have to ban him from engaging in politics and he also could turn out to be somebody of the opposite party. So I believe we are getting crossed up if we try to put the attorney general through legislative council. I think we are getting -- the judicial

council I mean -- I think we are getting the judicial council into some little difficulties, etc., and from the political standpoint we want to keep them out of it. They can't hold any position or be active on the political scene. So if this particular amendment does not pan out, I am going to propose one as follows: The department heads appointed by the governor shall include an attorney general. Then we can leave the initiative and referendum functions right where they are.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, as it has been mentioned, this is a minority report from the Committee, and I think it is only right you hear from some of the rest of the Committee regarding this. We in our Committee felt that it would be the wishes of the majority of the Convention to have a strong executive. By that we did not mean a dictator, one who would get into power and be the absolute power in the state, but one who through appointive powers would be able to select his co-workers down through the various offices so that when the state's functions would be successful we could say that we had a good governor, and when they would not be successful we would know who to blame and could vote accordingly at the next election. Mention has been made not only here on the floor but also the same argument in the Committee that the governor would have certain obligations and would be expected to lean toward that obligation in the appointing of an attorney general, but I can't help but feel that that same trend of thought would run right down through the other departments, and I believe that there are other departments under the governor that are of equal importance and if the governor is going to bow to party obligations or other obligations in selecting of the attorney general, he will do the same thing all the way through his other department heads, and we won't have a man in there that we can be fully proud of, and I think we are going to want to elect a governor who will be able to stand on his own two feet and appoint the men that he feels should be in the office. I think if he is that type of man he will not only be respected by one party but by all of the people of the state. As far as the removal is concerned, if we worry that the governor may remove the man at will, if that is not best, we can always insert that he be removed with the consent of the legislature, that is another matter, but as far as the appointing is concerned, I think that is vital right now. As far as screening is concerned, I can see that it might have been good in the past to have the nominations for attorney general screened some way before they even face election by the people. Be that as it may, I think if we elect a governor it is his duty to screen and select a good attorney general. That is part of his job. We are electing him to do that very thing, and if he fails to select a good attorney general then he is that much more a failure as a governor, and he will stand that test in the coming election. If we feel that the attorney general must be screened so that we have the best possible attorney general, I think it is also

necessary that the head of the department of education, head of the department of welfare, health and labor, and all the other department heads be screened by somebody so that this governor gets the right men in his cabinet, so to speak. I certainly feel that he should be able to screen and select a good attorney general as well as select the other department heads. But I think there is one thing that is even more important and we discussed that in the Committee, and that is the matter of compatibility. We have felt in the past that we have not had attorney generals who have been entirely in sympathy with the governor and it has been due to the way the two have gotten to their office. We elect the one and the other is appointed out of Washington, and we have seen certain cases where they have not worked out in harmony. Now, if the attorney general is to represent the people alone, then of course he should be elected, but as he is to work under the executive department we want a man who is compatible with the governor and with his type of program that he wants to put over in the state, one that understands the governor, one that will work with the governor and ask the judicial council as set up, not to honor party politics but to work in a nonpartisan capacity. Yet I feel they will not be able to do that as far as the attorney general is concerned, and I don't believe there is any more reason to feel that a judicial council nominee would be any more compatible than one elected by the people of the state; if they are going to ask the governor, "Will this man work with you or will that man work with you, do you want this one or that one?" You might as well say, "Let the governor pick the man in the first place." If they are going to have the liberty to put up a man that will not work with a governor, then we spoil our whole plan for an effective administration. I believe, as Mr. Ralph Rivers mentioned, if we want the attorney general's office mentioned at all in the constitution, it would be very simple on Section 16, line 14, after "department" to insert the words "including the attorney general's office." That would make it very clear that the governor would have the appointive powers and that the attorney general's office would be one that he would have direct control over. That gives you, I believe, some of the Committee thinking regarding the attorney general being appointed by the governor.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I would like to ask Mr. Rivers a question, if I may. Mr. Ralph Rivers, are the services of the attorney general available to the secretary of state in case he needs them?

R. RIVERS: Yes.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I would like to ask Delegate Rivers a question through the Chair, if I may.

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

BUCKALEW: Mr. Rivers, I notice that the proposal, that the caption is by Delegate Rivers. My question was whether this was a committee proposal or your separate individual proposal?

PRESIDENT EGAN: Mr. Rivers has already answered that question, Mr. Buckalew. He said that it was actually a proposal of his and of Mr. Harris. Mr. Victor Rivers.

V. RIVERS: In closing this discussion, I will make it brief. I just want to say, in my opinion it is no compromise opinion. If it had been a compromise we would not have this discussion on the floor. It has been pointed to as a compromise. Those of us who submitted this proposal honestly and actually think the attorney general should be screened. Now I wanted to clear up a point that Mr. McLaughlin made. He pointed out that certain appointive methods were used in the State of New Hampshire. They are. The attorney general is appointed by the governor and a council of five. In the State of Tennessee the attorney general is appointed for a period of eight years by the justices of the supreme court. In four states, as I am able to count, the attorney general is appointed by the governor by and with the consent of the legislature. In three states the attorney general is appointed by the governor and in the balance he is elected by the people. So if you add that up you will find about 38 states in which he is elected; in these two states I have mentioned, Tennessee and New Hampshire, he is appointed under a similar plan, and in the balance of the states he is appointed by the governor with or without the approval of the legislature, as the case may be. It is my thought, and I have observed this rather closely from some contact with the legislature, that while the attorney general is in essence not a judge, he does interpret the law which governs people until somebody challenges his interpretation, and then his decisions oftentimes and most of the time do have the force of law until they are upset or turned over or otherwise disturbed by having somebody appeal to the courts. It does not seem to me to be a bit out of line that the attorney general should be properly screened as to competence, and in the selection of the attorney general the governor should be relieved of the obligation to repay any favors or to make any particular discrimination in favor of any individual. It has been stated here that we tie the hands of the strong executive. Read this amendment over again. It does not say who the governor shall appoint. It says, "Two or more shall be screened by the judicial council and submitted to the governor for his appointment." He is not limited to the one man or two men or three men. If he can't make his choice he might even have four men, but he does have any obligation removed in making that appointment to any individual. It would be entirely free of a political aspect insofar as it affected the attorney general's competence. There is nothing in here that is counter to common practice, I refer

to the State of New Hampshire, the State of Tennessee, and others, but it costs you money if you go to court to upset an attorney general or any other similar official's opinion. That opinion as I have seen it many times, that opinion has the force of law and interpretation of any laws the legislature may have passed. While you might not view him as a judge, in essence he is a judge of what that law says until it's determined otherwise by the courts. In essence he is a judge of what certain things do that apply to the people. For that reason I think that he should be screened as to competence. I see nothing in that which weakens the strong executive. The governor might say of the first two appointees named, "I am unable to make a choice; submit me another name." There is nothing that stops him from doing that in the proceedings of the council. It seems to me that some determination which would relieve this office of having to be filled by any repayment of political favor or obligation should be set up, and that is why we have introduced this amendment. It is no compromise.

PRESIDENT EGAN: Mr. Victor Rivers had stated he was closing. No one objected. Unless there is someone who has not spoken -- Mr. McLaughlin.

MCLAUGHLIN: I wanted to ask Mr. Rivers a question. Mr. Rivers, when you say the council in New Hampshire, you mean that five elected executive council who are elected by the people together with the governor?

V. RIVERS: I stated the council of five. The council of five is elected for two-year terms along with the governor and they determine with the governor the appointment of the attorney general.

MCLAUGHLIN: But that is not a judicial council at all, is it?

V. RIVERS: I don't know what their duties are. They are a council of five, but whether they are constituted as ours is, I do not know.

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

HARRIS: I request a roll call.

PRESIDENT EGAN: Mr. Harris asks that we have a roll call. The Chief Clerk will call the roll on the question.

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

Yeas: 18 - Barr, Collins, Cross, H. Fischer, Harris, Hinckel, Kilcher, Metcalf, Nerland, Nolan, Peratrovich, Reader, V. Rivers, Robertson,

Rosswog, Smith, Taylor, VanderLeest.

Nays: 36 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nordale, Poulsen, Riley, R. Rivers, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 1 - McNealy.)

CHIEF CLERK: 18 yeas, 36 nays and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 14? Mr. Ralph Rivers.

R. RIVERS: I have an amendment.

PRESIDENT EGAN: Mr. Ralph Rivers, you may offer your amendment. The Chief Clerk may read the proposed amendment.

R. RIVERS: May we have about a two-minute recess? I would like to consult with Mr. Londborg.

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. The Chief Clerk will please read the amendment as proposed by Mr. Ralph Rivers.

R. RIVERS: It hasn't been introduced yet, I was going to withdraw it.

PRESIDENT EGAN: No, it has not been introduced.

R. RIVERS: I won't even do that.

PRESIDENT EGAN: Are there amendments to Section 13 or 14 or 15? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question about Section 14. May I be permitted to address it to Mr. Rivers?

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

SUNDBORG: Mr. Rivers, I am a little bit bothered about these

executive orders of the governor which may change the assignment of functions among the departments, and I am wondering just what force they would have in law, for example, where they contravene some law that might have been passed by the legislature saying that the function of a certain department shall be thus and so and then the governor issues an executive order which says here that it will become effective at the close of the next regular legislature. What happens to the law on the books? Is it of no avail?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I am pleased to answer that question because it is one that we discussed at some length in the Committee, and in regard to organizational efficiency of the executive department, the governor would be able to recommend this change in his executive order. It would not become effective until after the legislature had reviewed it and could then take an action upon it. It is the same clause that goes along with, of course, the idea of the strong executive. It is also the same clause that is used in a similar manner for the reorganization powers of the President of the United States. It does give him the power to alter existing organizational structures that have been set up by law, but only after the legislature has failed to say "No, we won't let you do that."

SUNDBORG: Don't you feel we have to specifically give those orders the force of law in the constitution or otherwise before they could contravene an act of the legislature?

V. RIVERS: We discussed that and thought this wording would cover it by and with the advice and also discussion with more than one consultant on the matter. Occasionally there is a body within the organizational administrative setup of government where they have the power of making rules that have the force of law, and it was thought this wording covered it. Of course, none of the rules that are upset or changed, or become law are actually accepted until the legislature fails to take a positive repealing or negative action.

SUNDBORG: Would the governor have the authority, and I assume he would, to veto an act of the legislature which would undo one of these executive orders of his? If not, should we not say so?

V. RIVERS: This is a resolution, not an act. They would do it by resolution if they did not approve, and he has no veto power over a resolution. That is a joint action of the house or the two houses independent of any governor's approval in connection with resolutions as I understand it.

SUNDBORG: Does any state have a provision such as this?

V. RIVERS: I believe there are some of the newer state

constitutions, but I can't name them for you. It was generally discussed, and it was implied, and it was my understanding that there were some, and also they do have the same thing in the reorganization powers of the national government.

SUNDBORG: I don't oppose it necessarily, but I just wondered whether we have enough language to make it workable, and you are convinced we do?

V. RIVERS: Yes.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I was going to try to answer Mr. Sundborg from my own standpoint. It appears to me, Mr. President, as one delegate, that if we adopt the provision which is in the proposal, then that if the legislature should make some laws which would take away the power which we here give the governor, that the laws would be unconstitutional and that we are not running into the problem Mr. Sundborg mentions because there should not be such laws.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: First a question of Mr. Victor Rivers. Mr. Rivers, don't you feel that perhaps the last sentence of the section weakens the theory of the strong executive?

V. RIVERS: In respect to the fact that the legislature would have to approve his recommendations, is that as you visualize it and is that what you are talking about?

HELLENTHAL: Yes. Recommendation in the executive field would require some sort of concurrence of the legislature.

V. RIVERS: It would require it in the case of any major change. He has the authority within his structure, no doubt, to make the minor changes necessary, but where he is going to, as it says in here, "assignment of functions and units thereof", you are going to have to have some consent of the legislature, as the Committee viewed it, and I believe I speak for the Committee unanimously on that point.

HELLENTHAL: I believe that answers my question. My point similar to Mr. Davis's, generally the executive branch of the government is supreme when acting in the executive sphere. In that sphere it cannot properly be interfered with by either the judiciary or the legislative branch. That is our true doctrine of separation of powers, and the courts have so held, but here I think we are diluting that. We are permitting an overlapping of the

legislative into the executive sphere. The normal check on a thing like this would be the court, and here we have a constitutional check in language which I agree with Mr. Sundborg is not at all clear. Perhaps an illustration of this is where the President acting properly in the executive sphere is told by Congress to do something, and the President ignores the congressional order. For instance, oftentimes the President has refused to answer a subpoena from a legislative investigating council, the theory being that the President, as executive, cannot be interfered with. But here we are enshrining a vague sort of interference.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I just perhaps could amplify the Committee's thinking a bit on this. We were thinking primarily of laws setting up boards and sort of sloppy administration, as we have at the present time. Now then, when the governor sees there are too many departments set up functioning by themselves or functioning under boards and there isn't any coordination, he has the right to suggest a reorganization and a different assignment of functions. Where his executive order might be contrary to the law which originally set up this department or board, that part of his executive order would have to be disapproved by a legislature. That is the way it works, just like the President.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, just another word along that line, and I think Mrs. Nordale brought it out quite clear, now the other way would be if the governor wanted some reorganization he would have to go to the legislature and have a bill introduced by somebody or on his own request and that bill would be acted upon to make this necessary change. For instance, deleting a certain board or ceasing its functions and putting it under the single department head or something of that nature, whatever major change he would want he would have to depend upon the legislature to pass that bill and get it into operation. Doing it this way, he sets forth an executive order but it does not become effective until it slips through the next session of the legislature without being voted out by the legislature. I suppose you could call it reverse legislation. The governor makes a new law and if the legislature does not want it done away with, well, then they can let it go through, but I think it runs in line with the strong executive we have where he can set forth his changes and the legislature by being silent on it, in that way they approve of the order.

PRESIDENT EGAN: In the absence of any amendment before us, are there amendments?

BUCKALEW: Mr. President, I have an amendment.

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

CHIEF CLERK: "Section 14, line 23, strike the sentence beginning with the word 'Regulatory'."

BUCKALEW: I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment. The amendment that was carried over by virtue of a reconsideration only related to the quasi-judicial wording, is that right?

BUCKALEW: This is completely different.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Buckalew. Your point of order, Mr. Riley.

RILEY: Point of order. While the reconsideration is still before us, I don't believe this is in order; it would deprive the man of reconsidering.

PRESIDENT EGAN: The question would be whether or not this proposed amendment is all-inclusive. The Convention will stand at recess for two minutes if there is no objection.

RECESS

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

BUCKALEW: Mr. President, with the consent of my second I would ask unanimous permission to withdraw my proposed amendment.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent to withdraw his proposed amendment. Is there objection? Hearing no objection it is so ordered. Mr. Kilcher.

KILCHER: Mr. President, I move at this time the consideration of the amendment.

PRESIDENT EGAN: Mr. Kilcher moves the reconsideration of his vote on the amendment by Mr. Buckalew of the Saturday evening at this time. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: The question is, "Shall the words 'and quasi-judicial' be deleted from Section 14 of the Committee Proposal

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No. 10/a?" Mrs. Nordale.

NORDALE: May I ask a question?

EGAN: You may ask your question, Mrs. Nordale.

NORDALE: Is the purpose back of your amendment, Mr. Buckalew, to put a quasi-judicial body under a principal department?

BUCKALEW: Will you repeat the question, Mrs. Nordale?

NORDALE: Is your purpose in removing the word "quasi-judicial", is your purpose to provide that those quasi-judicial bodies shall be allocated within a principal department?

BUCKALEW: My purpose was, if we are going to have to have quasi-judicial bodies, to have them independent of the executive arm.

NORDALE: That is, of course, what our sentence does. It says they need not be allocated within a principal department.

BUCKALEW: By inference it makes it possible to have them in the executive arm. They need not be but they can be.

NORDALE: Is it possible that it might be appropriate to have them in some instances in a principal department?

BUCKALEW: In my humble opinion, I don't think that would be --

NORDALE: The legislature would have to set them up in the first place, anyway, and put them somewhere, is that right? Under this they don't need to be in a department.

BUCKALEW: As I read the language they don't need to be but they can be. My point was if we are going to have these boards, which I think are inherently evil, they should be as separate from the other arms of the government as possible.

NORDALE: That is precisely why we put the sentence in because up ahead a little way it says, "All executive and administrative offices, departments shall be allocated by law within not more than twenty principal departments, insofar as possible..." So we made an exception that these need not be allocated within a principal department.

BUCKALEW: You will agree with me, Delegate Nordale, that the language makes it possible for them to be included within executive office? You'll agree with that?

NORDALE: Certainly, provided it is the sensible thing to do.

BUCKALEW: That was my objection.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew, deleting the words 'and quasi-judicial' from Section 14 of Committee Proposal No. 10/a 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. Robertson.

ROBERTSON: I would like to ask the Chairman, Victor Rivers, why is the word "administrative" omitted from that particular sentence? You refer to "administrative" in line 1 of Section 14, why don't you have the word "administrative" in there?

V. RIVERS: Which sentence is that, Mr. Robertson?

ROBERTSON: In line 23, "regulator and quasi-judicial bodies", why shouldn't you have the words, "regulatory, administrative, and quasi-judicial bodies" in there?

V. RIVERS: Well, as I understand it, it is our understanding that administrative bodies as a group should be under principal departments and this would make it possible to exempt them. Certain classes of administrative bodies, such as regulatory, quasi-judicial, and temporary need not be for the purposes of efficient administration, all of the major administrative bodies would fall under a principal department. That was the Committee intent.

PRESIDENT EGAN: Are there other proposed amendments to Section 14, 15, 16? Mr. Riley.

RILEY: I have an amendment on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment as offered by Mr. Riley to Section 16.

CHIEF CLERK: "Section 16, page 7, line 21, strike the last sentence." Is that right?

RILEY: Yes. Mr. President, I move its adoption.

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

GRAY: I second it.

PRESIDENT EGAN: Seconded by Mr. Gray. Mr. Riley.

RILEY: Mr. President, to a degree we have considered this problem with respect to the article submitted by the Committee on the Judicial Branch, and it is my memory that on that occasion quite a bit of discussion occurred, and it was the feeling of the body that we should not deprive ourselves of the services of

able people who might not happen to reside for a stated period in Alaska. In short, we should be able to use the services of those from other jurisdictions in the event and on the chance that efficient talent was not available in Alaska. Now, I think the proposition has even greater force as concerns the various administrative offices that will be provided for, for the State of Alaska. I can recall in my own observation over a period of eight or ten years that at least five occasions when language of this sort, or its absence, has been either disadvantageous or advantageous to the Territory. I think of five major departments, important departments, of the Territorial government before the question arose -- in two instances there was such a prohibition and the hands of the administrative board charged with the conduct of that particular agency were tied. In three instances that I recall, there was no such provision and the appointing authority in that instance was able to go elsewhere to find able, competent people where they had felt there were not qualified applicants from Alaska. I think if we were to have a strong executive who is to be charged with the responsibility for conducting a strong administration, he should properly be able to look over the entire field to find the proper people for administration of particular departments, especially in technical fields where not necessarily will he find in Alaska the people for such responsibilities. Now, I am familiar with the arguments that have been advanced in this respect in the two or three times it has been under discussion before, but I feel that once we have an elective governor the situation will take care of itself. Whomever we have elected as governor of Alaska will be keenly aware of the political implications of going beyond Alaska to fill key roles. Today the situation may not be the same as it would then under an elective governorship, but in any event an elective governor would first scan the field in Alaska, would first try to find qualified personnel here, but if he is to conduct a proper, a good administration, I do not feel that he should be deprived of the services of people from other jurisdictions if unable to find equally capable people here.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, may I address a question to Mr. Riley? Do you object to the provision that heads of departments of the State of Alaska should be citizens of the United States?

RILEY: No, I would not.

SUNDBORG: Were you present when the Convention amended line 23 to provide instead of "citizens of this state" that they shall be "citizens of the United States"?

RILEY: I must not have been.

SUNDBORG: That amendment has been made, and I wonder if you would agree to putting a period after the word "states" in line

23 and striking the balance of the sentence?

RILEY: I agree with that and in submitting my amendment I was not aware of that change. I would ask unanimous consent that that change be made.

PRESIDENT EGAN: Before the Chair puts the question -- Mr. Hellenenthal.

HELLENTHAL: Could we have the Clerk read us Section 16 as it now appears. I think there was another committee amendment that was passed by unanimous consent, but I want to be sure that my version is the same as everyone else's.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence?

CHIEF CLERK: I don't have any record of the amendment Mr. Sundborg is talking about.

V. RIVERS: We put a period after "governor" in line 18 and struck "during his term of office" and struck down to "state".

CHIEF CLERK: I don't recall what Mr. Sundborg is talking about.

PRESIDENT EGAN: Mr. Sundborg was speaking of another section.

V. RIVERS: Line 23, we adopted by unanimous consent request, the words "citizen of the United States and". I have it marked on my copy.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe what Mr. Sundborg is referring to is on line 5, page 1, we struck "of the state" there, and I do have an amendment on the Chief Clerk's desk to strike. "shall be citizens of the state".

PRESIDENT EGAN: The Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley, during the recess did you determine just how the section actually reads at this time?

RILEY: I think the general agreement among those I've talked to, Mr. President, is that the amendment mentioned by Mr. Sundborg was adopted.

CHIEF CLERK: I don't have it.

PRESIDENT EGAN: If there is no record --

RILEY: In that case, Mr. President, I should like to ask unanimous consent that in lieu of the amendment I have put in, that the word "United" be inserted on line 23 just before the word "state" and ask that an "s" be added to the word "state" and a period be placed thereafter, and the balance of that line and the next two succeeding lines be stricken.

PRESIDENT EGAN: Do you ask unanimous consent that your original amendment be withdrawn?

RILEY: Yes.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request to withdraw? Hearing no objection, it is so ordered.

RILEY: I would also change the word "this" to "the" preceding "United States".

PRESIDENT EGAN: You have heard Mr. Riley's unanimous consent request for the adoption of his proposed amendment which would make this sentence read, "The heads of all principal departments appointed under the provisions of this section shall be citizens of the United States."

V. RIVERS: He did not ask unanimous consent for the striking of the words and the rest of it, did he?

RILEY: No, I did not.

PRESIDENT EGAN: Unanimous consent is asked that it be changed to read "the United States". Is there objection to that proposed amendment?

ROBERTSON: Deletion of the last clause?

PRESIDENT EGAN: Not in this particular request, no, Mr. Robertson. Is there objection to changing it to read "the United States"? Hearing no objection it is so ordered. Mr. Riley.

RILEY: Getting back to my earlier motion which was submitted perhaps under a misapprehension on the part of many of us here as to whether the "United States" had been adopted or not, I move that the last word on line 23 and the next two lines be deleted.

DOOGAN: I'll second the motion.

PRESIDENT EGAN: Mr. Riley moves that a period be inserted after the word "states" and the last word of that sentence and the following two lines be deleted from Section 16.

RILEY: All I shall say at this time, Mr. President, is that it

gives effect to my earlier thought and the argument on the original amendment is equally applicable here.

PRESIDENT EGAN: You moved the adoption of that amendment?

RILEY: I have and Mr. Doogan seconded the motion.

PRESIDENT EGAN: The motion is open for discussion and the Chief Clerk will please read that last sentence as it would appear if Mr. Riley's proposed amendment is adopted.

CHIEF CLERK: "The heads of all principal departments appointed under the provisions of this section shall be citizens of the United States."

PRESIDENT EGAN: The motion is open for discussion. Mr. Victor Rivers.

V. RIVERS: Was it your intent that they should not even be qualified electors of the state?

RILEY: My intent was they need not be, that the executive could request, recruit his help from whatever points he might feel he was able to find the best qualified.

V. RIVERS: Speaking against this motion, the wording the way it came out of the Executive Committee was the thinking of the majority of the Committee. It was not unanimous but I do want to say this, that here again comes this consideration as to whether or not the people in the policy-making positions of government shall be acquainted with Alaska. We have had a rash of appointments lately. I can name some of them -- the Finance Director, the Insurance Director -- I am not sure of the other one, but one other was the Fire Marshal, the Juvenile Board head, all appointed from the states. Now those would not be in any instance, except perhaps Finance, the head of a principal department. But I just want to point out there is a general trend and swing in that direction. I know of four, possibly five applicants that were submitted for the head of the fire marshal setup in the Territory. The board ended up by selecting a fire marshal who was an ex-detective from the police force in Seattle who stayed three months. I happen to know for a certainty there are qualified men in the fire practice who are residing in the Territory of Alaska and who were applicants for that position. However, under this clause which is being stricken, that particular section would not have applied. This would, however, establish a general policy. I want you to note, of course, that the Territory of Hawaii, in adopting their constitution, had the same feeling and did include a residence clause. It seems to me basic that people in principal heads of departments, should know something about Alaska as well as being qualified in special fields, and there is nothing in here that would stop such departments from having the services as an assistant or any

other manner of properly and qualified specialists. However, where they have a broad policy-making decision and authority in the state government of Alaska, I, for one, want to see them be competent and acquainted with Alaska's problems as well as having the qualifications to handle the particular job in which they are being appointed. It seems to me the offices we are talking about are largely of a general administrative nature. Any special services you may require under principal departments could and properly should be provided by specialists in the technical field in which you are dealing. I, for one, would not support that amendment.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I wish to support Mr. Rivers' viewpoint on this. I oppose the amendment. In addition to the example cited by Mr. Rivers, we have an example in Seward which is a matter of public record where the new commissioner appointed -- the former one was brought in from Utah -- he was new and stayed only slightly less than a year and one-half. I oppose the amendment, it will lead to nothing but trouble and confusion.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I should like to speak in favor of the amendment for this reason: we here in Alaska have been too prone to insist upon having our cake and eat it, too. If we carry this thinking to its logical conclusion we would not go to a doctor for medical attention unless he had been in the Territory for 50 years. Sure, I came to Alaska in 1906; therefore, I am thoroughly qualified for some executive office. If we want to join the United States and be equal partners with all of our citizens, then we certainly cannot build a wall around ourselves. I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I am in favor of the amendment, and I believe that the arguments posed by Mr. Rivers and by Mr. Metcalf are not in point, as they are citing as the horrible example that which has occurred in the last two or three years under the present governor. I doubt whether any governor would have the temerity to even suggest that the head of his department should be brought in from the outside because the people and the party to which he belonged would frown upon it, and he would be practically committing political suicide by doing so, but under the appointive governor system, we have no say as to who they bring in and where they get them, but we have to take them and like them if they are of a likeable nature. If not, we just have to take them, so I don't believe you will have these abuses of appointing outside people to a great extent under the state government; and then again, there is a possibility that in certain lines we might be able to get an outstanding man who might be a citizen of the

United States but not a resident of the Territory of Alaska. We might be able to get a man like Dr. Benson, a fine person. I don't know how many of you people know Dr. Benson, but he is a man who has worldwide recognition as you might say, an agricultural engineer, an agronomist, and in his field he was ranked as one of the best in the world, one of the outstanding men, and he did a wonderful job here for the Extension Service, the Agricultural School here. If we could get a man like that we certainly would not want our hands tied so that we couldn't possibly get him and have him in Alaska. We know among a lot of the displaced persons in Europe there were brilliant men, men in their field who are highly recognized. In fact, we had one of the displaced persons from Europe, one of the men who fled for reasons of persecution, I think single-handedly he added more to the ending of the war than any person in the world, and I allude to Albert Einstein. He was a man who was forced out, and we have other men of similar stature, maybe not as well recognized as him but in among the ranks we may find other people, and we know we would, and I do not think we should shut the door on getting the best possible men; but I would certainly be in favor of that if we could get qualified persons in Alaska, they should be picked.

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

LONDBORG: Just a word or two further from some of our Committee thinking, I don't think any of us felt that there aren't men elsewhere in the world that would perhaps be better qualified from a technical standpoint. As far as a new doctor coming up here and saying that we would not go to that doctor, I think that is just a little far-fetched thinking. In fact, we might even send for a specialist to come and perform a certain operation be he an Alaskan or not. We have an entirely different situation here where you are going to have a man, and you are going to tie him up in Alaska for a period of, say four years, and I think one thing we should keep in mind that will make for a successful working of a department is to have people in that department who like Alaska, and I think we have seen many people come up to Alaska, they like Alaska, my, they are just all enthused about it, but then after a few months the newness wears off and then they sit there. They have a job and they can't perform it to the best of their ability. They don't like Alaska as much as they thought they did. Alaska is a lot different in many, many ways, climate and otherwise, and I don't think it is a bad policy to have a person go through a three-year waiting period, if you want to call it that, or at least prove they are really Alaskans. At least take a resident, one that has been here a year, a qualified elector and pick from that group. As far as the principal department heads, if they can find a man who is tops in his field, they can hire that man to come up and work and do the job under them. If they're not willing to come and work under a principal department

head, then they probably should be over the governor, also.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I was born in Alaska, and I have vigorously fought any movements that might be called "Alaska for Alaskans" movements. I wholeheartedly support this amendment. It does not belong in the constitution. I have faith in the executive; I have faith in the legislative; I am sure they will pick qualified men. It might be that those qualified men would be men of residence elsewhere and recent arrivals or they might even be sought out elsewhere. I am not the least bit worried about the thing, but I would be worried if such a restrictive provision were included in the constitution, and I therefore vigorously support this amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, the average Alaskan suffers from an inferiority complex. When I attended my first session of the legislature, there was a reporter there, Jim Hutcheson, who represented the Associated Press, and I asked him what he thought of our legislature, the senate in particular. I said, "How does it compare to other state senates?" And his answer surprised me. He had observed several other state legislatures in action, reporting them, including Washington, Oregon, and Massachusetts, and I believe one or two others, and he told me that our senate conducted themselves in a more dignified manner and was more industrious than any other state senate he had ever observed. Now, Mr. Hilscher asked why we should be confined to consulting only Alaskan doctors if there were better doctors outside. There have been many people who have gone outside to consult specialists who have been told they should never have left. We have as good an eye specialist in Alaska as there is anywhere in the United States. We have as good a bone specialist as any in the United States, and probably others, but Alaskans don't seem to know that. I am not foreclosing Alaska to outsiders. I believe the more population we have, the better. The more technical skill and knowledge we can import, the better, but this amendment refers only to department heads, and speaking of Dr. Benson, the agronomist, certainly we should import people like him but he is not a department head. Now a department head, his job is chiefly administrative. He should have some knowledge of his subject, of course, but if his assistant has the technical knowledge or other people under him, he is well equipped to do his job. My only interest in providing a restriction of residence for a department head is to see that that department head is fully qualified for his job and is the best man available. I don't believe that despite his past technical knowledge any department head can perform his job fully and ably unless he has a knowledge of Alaska. In some departments of course he has to have more knowledge than others. In the average department he should have

a thorough knowledge of our transportation system, of our climatic conditions, things of that sort, which are far different than any other place in the United States. He can import all the technical knowledge he wants, put them under him as assistants. I will always support provisions such as in this committee report to insure we have the best man available for the job.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I was born and raised in the Territory. I have been outside for a couple of very, very short periods, and I don't think I have an inferiority complex. If I do, I don't admit it. I have tried to fight qualifying language like this proposed section proposes. I maintain that any executive who has been put in the job of governor, first by a major political party and then elected by the people, if he can stand the gaff of going outside to get somebody he thinks he needs, let him do it. I think that we in Alaska, as has been said, sometimes try to build too much of a wall around ourselves. We are trying to adopt a constitution. We put qualifying language in like this, we complain to the Congress of the United States that they won't recognize us as citizens of the United States, and then we turn around and say in our constitution, after they do recognize us, that we are not going to recognize them until they live with us for a while.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I was one of the minority on the Committee along with Mrs. Nordale that was not in favor of the adoption of this particular language, and I would like to say I subscribe to the statements that have been made in favor of the amendment, and I have no fear it will be abused.

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

WHITE: Mr. President, I was not going to speak on this because I think my feelings are well known and my arguments can be made much more effectively by delegates such as Mr. Hellenthal and Mr. Doogan who have lived here all their life. It really strikes me as funny to hear this kind of debate on this floor because whether we have lived here all our lives or whether we are relative newcomers -- I have only been here nine years -- we are all proud of two things. One thing we're proud of is that Alaskans come from every state in the union, opportunities are equal for all people who come here; we are proud of that fact. Secondly, we are proud of the fact that Alaskans say to a person, "We don't care where you came from, what your religious beliefs are, your economic position might be. We are interested in what kind of a person you are, if you can measure up you are welcome." For us to throw up barriers when we are thinking of forming what will be the biggest state in the union, strikes me as quite a paradox, particularly where we

are considering positions that will have to be filled by men who will have to measure up. They are answerable in this case to the governor and through him to the people. If they don't measure up, they will not be able to continue in the position. If they do we should have them here and make them welcome.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I was just thinking that in many of the professions, law and medicine and all, we have a reciprocity agreement with some of the states. It would seem too bad that if someone in New Jersey, or Missouri, or somewhere, would like to come here and practice law and might be qualified to be a head of a department and although he has reciprocity he cannot until after a two-year period. I am in favor of the amendment.

PRESIDENT EGAN: Mr. Smith has been trying to get the floor.

SMITH: Mr. President, I feel there are a few things that have not been said that should be said. Now as I see it, the entire theory of the strong executive can only be justified on the basis of efficiency and it appears to me neither reasonable nor logical to set up an executive branch on that basis and then deny the governor the right to select the best men available, wherever they may be. Now, when I first read this sentence, the first thought that came to my mind was the time not too long ago when the Alaska Department of Fisheries was established. I recall very well the problem which confronted the Fisheries Board. The Board had many applications from people in Alaska and I recall a great many of those applications and the qualifications that were set out. I can say without fear of contradiction there was not a man in Alaska at that time who was capable both from an administrative and the technical standpoint to set up and administer that department, and I shudder to think what would have happened had this sentence been in effect at that time. I am one of those who believe that in order to qualify for the position as the head of an administrative department, a man should have both administrative and technical ability. I believe that the interests of the people of Alaska in the efficiency of the administration of their affairs would outweigh by far their interests in guaranteeing employment to a very few residents.

PRESIDENT EGAN: Mr. McNeas.

MCNEES: We have provided in our legislative article a three-year residence clause for either the senate or the house. We provided in our executive article a seven-year residence for the governor. I feel that in the light of this and the fact that there are many men available in specialized departments, particularly those connected with the various great universities across the nation, that an executive should not be limited in reaching out and picking up the best available man for his department head that he can find anywhere, irrespective as to

where that may be. I furthermore feel that there are substantive checks upon the executive's authority, changes that he might wish to make in his department heads, changes he might wish to make originally in the appointment of those department heads in our clauses relative to the legislative and executive departments, and I feel that the executive should be given this power of reaching out and picking up his appointive department heads wherever he might find them subject to the approval, of course, of the legislative group which will be Alaskans. Therefore, I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I have heard many times people refer to that "blankety carpetbagger comes to Alaska", and I have heard about the great sourdoughs, a very great people and at one time not long ago you could not talk unless you had been here longer than this sourdough and I think they are a great people, but I think that a sourdough is a state of mind. If you have come to the country and you adopted it and were for it, God bless you, you are a sourdough. That everyone wants to be, and you can be it. A lot of people I know that come here and feel "I don't belong; I am an outcast." That attitude has been spread around here coming from the days when you were a closed fishing and hunting empire, but the day has passed and we hope to join the citizenry of the whole United States. We are a part of the whole, and I think we would show us to be very small and measly if we tried to give favors to one section of the North American continent. We are all one people, and I hope that we go on and vote for this amendment and make us a part of the world.

PRESIDENT EGAN: Mrs. Wien.

WIEN: Mr. President, there has been so much said for this amendment that I hardly feel that I need say more, except to say one thing that was brought out in the Fairbanks hearings, and that was that we have a wonderful University of Alaska but it is at the present time quite limited in its coverage in special fields, and I for one can foresee that with our scientific inventions and the new things that are coming, that we will have a department of government that we do not at the present time foresee which will need specialized heads, and being that the boards and commissions are appointed by the governor I feel that these boards with Alaskan experience should be able to go to the states to pick the executive and this was brought out in the Fairbanks hearings by a man whom I believe is connected with the University of Alaska as well as one of the department heads, and I also find in the Convention so often in comparing the evils of going to the states for appointments, and many other ways that we are thinking of the Territorial form of government rather than the over-all picture of the new state government, and it is something that I have to fight constantly in making decisions, and I think that each one of the delegates

must fight that in making comparisons of the past. I am definitely for the amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I just wanted to say that I am one of the minority on the Committee, and I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I am leading the opposition on this amendment evidently, I just wanted to say these are principal departments, department heads. They do not apply to executive officers appointed by boards, they do not apply to the University, they do not apply to anything except those officers in charge of principal departments that make the policy of our government. I think you have seen when you open the way for certain individuals to come into government, pretty soon they have all the cronies from their state with them. I have seen in one department of justice here where a substantial number of all the appointees made have come from one state and of one religion. I have seen one of our big school systems here where the superintendent from one state draws practically 40 per cent of his new appointments from two states and also of one religion in the last three years. I say when you appoint the men here who do not have the Alaska background and the Alaska knowledge to know the country and making policy in major principal offices, you would be establishing a government of Alaska for Alaskans by Pennsylvanians, by Utahans, by Idahoans, or something else. This is policy-making. There are no specialists under this clause that cannot be hired and believe me, when you bring a man in from some outfit in another place and give him high powers of government, it is not going to be very long before he is surrounded by his own particular group, constituting his own hierarchy from the area from which he came. That has been evident all the way through. So in these high offices of principal department heads of making policy. I for one in this Committee and on this floor, strongly feel they should know something of Alaska, and I think three years requirement to know something of Alaska is an absolute minimum. I think it is one of the basic requirements of the job. This broad general gesture about these men coming in here in their specialized fields, there is nothing in this article that prohibits them bringing in any specialist they may need. It does prohibit them from putting a specialist or any other man in a principal department for making policy who would then be in the policymaking body of our government. It seems to me that it is a right that we owe the people to have people in these high cabinet offices who do know the Territory as well as knowing their business, and if they are such good men and they really want to be a part of Alaska they wouldn't hesitate to spend three years here in filling out their knowledge and knowing something about the country, and I do want to point out again that when

you put a man in a high policy-making office, it is not very long before the underlings, which we require no residency clause here, may also constitute the major part of that particular office because that has been the experience of us in Alaska in the past. I have seen it in city government; I have seen it in school government; I have seen it in departments of justice government; and I have seen it in other parts of the Territorial government where some man is put in a position of power and he is soon surrounded by his own people from his own state or his own general area.

PRESIDENT EGAN: Mr. Stewart.

STEWART: As a sourdough and, I think, observing the cautions Mrs. Hermann has on her desk, I want to support the amendment. I don't think this has any place in the constitution.

PRESIDENT EGAN: Mr. Riley.

RILEY: In exercising the right to close, I will forego further comment, Mr. Chairman.

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

WHITE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 38 - Armstrong, Awes, Boswell, Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Nerland, Nordale, Poulsen, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 16 - Barr, Coghill, Collins, Cross, H. Fischer, Harris, Johnson, Laws, Londborg, McCutcheon, Metcalf, Nolan, Peratrovich, R. Rivers, V. Rivers, Robertson.

Absent: 1 - McNealy.)

CHIEF CLERK: 38 yeas, 16 nays and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 16? If not, are there amendments to Section 17? Mr. Coghill.

COGHILL: Mr. President, I have an amendment to Section 16 but with the amendment now adopted I wish to withdraw that one. I do have an amendment for Section 17.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Coghill for Section 17.

CHIEF CLERK: "Page 8, lines 8 and 9, delete 'but the appointment shall be subject to the approval of the governor'.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that the proposed amendment be adopted.

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

KILCHER: I second the motion.

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

COGHILL: Mr. President, in proposing this amendment, what it has done, in turn it has made the principal department boards that are appointed by the governor free of hand to appoint their executive officer and to keep in trust the thinking of the people as to the violation of political inference in particular service boards. I mainly am interested in the board of education and so, therefore, will refer my remarks to them. The Hawaii Constitution provides that a lay board of education be established and the board be given the sole power to appoint its chief state school officer and in turn that would be what we would call in Alaska our commissioner of education. I note that in 18 states the board is provided by the constitution and 21 states by statute and in all of these instances, or most of them, why the executive head or the head of the board, the administrative head, is appointed by this responsible lay board which is in turn answerable to the governor. I feel that this is a move to take any sort of partisan politics out of a service board or a service department such as the commissioner of education or the commissioner of health or welfare. I think that it would apply to all three of them. I might add that one of our great men in education provided that in a speech that he made that governors and state legislatures without exception are bound by state constitutions, by court decisions and their tradition to establish and maintain public schools free from political entanglements and the domination of any special interests or selfish interest groups, and I believe that by deleting this particular part of the last sentence that we would thereafter have no rash move on our strong executive power to remove a good man from office or to turn one down because of party or political affiliations.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. Chairman, we were discussing this matter Saturday to some extent with some of the members at this desk. and at that time I was prepared to bring in a similar amendment to what Mr. Coghill has brought in now to strike after the word "law" on page 8, because I thought it would affect the University of Alaska, and if it would affect the University of Alaska I certainly would be in favor of this amendment because the University of Alaska has a Board of Regents appointed by the governor and confirmed by both houses of the legislature and they in turn select the administrative officer which is the President of the University. I don't believe that a man so selected by that board should be subject to the approval of the governor, so I checked up with a couple of the attorneys here and we find that the University of Alaska would not be subject to, the appointive officer of the board of regents would not be subject to the approval of the governor because the University of Alaska is a corporation and its Board of Regents is the Board of Directors so to speak, and I will ask Mr. Riley, whom I consulted Saturday and again today, to bear me out on this point.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Walsh, I have not given the matter any independent study, but I have no reason to question anything Mr. Walsh has said. I think that others have provided the right source material on which his remarks are based.

PRESIDENT EGAN: Mr. Walsh.

WALSH: If the University of Alaska and the Board of Regents of the University of Alaska and their appointment of the administrative officers, if the appointment should be subjected to the approval of the governor, I am going to vote for this amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think it is clear in everyone's mind that the University of Alaska is not a principal department of government. We are dealing in this article only with setting up the departments of the executive branch of government, and it seems to me only consistent that the heads of those departments be approved by the governor. It is not very likely he would disapprove them since he has appointed the boards; naturally, the board should be in sympathy with his general viewpoint. Furthermore, there might be times -- the board of education is not going to be the only board -- I don't think there is anything dangerous about it at all. I think it is only consistent with a coordinated government, and never forget, the governor is responsible. I don't think any enlightened person in this day and age wants to see education in politics.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I raised a question on this Saturday also. It says "...at the head of a principal department or of a regulatory or quasi-judicial body..." Therefore, I feel that all boards or commissions eventually would be classed within those three limitations and that the governor would have to approve the appointment of the executive officer, and I agree with Mr. Walsh and others that eventually politics can possibly enter into some board or commission where it has no point of being and I support the amendment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to say that I do not consider education or anything else a "holy cow". It is a function of this state. It is part of the general administrative organization, and I do not believe that it deserves any kind of special treatment. I think that the commissioner of education should possibly be appointed by a special board of education, a nonpartisan board. At the same time, however, that commissioner will have to work with the governor. He will have to work with other department heads. For instance, the commissioner of education, I do not believe it would be right to leave the way open for the appointment of a commissioner of education who will just be separate from the general executive branch of the state and from that standpoint I am very much opposed to the amendment, and I stand by the article as it is written.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask a question of Mr. Victor Rivers?

PRESIDENT EGAN: You may.

HELLENTHAL: Mr. Rivers, would you have any objection if specific language excluding the University of Alaska were included in the section?

V. RIVERS: Mr. Hellenthal, I will stand by the committee report in this matter. It is one of the things we discussed at length. We feel we have solved it adequately and properly, and I would not care to see a specific inclusion, or exclusion made. I speak for myself and I think for the whole Committee on that.

HELLENTHAL: For example, would you object to saying, "Provisions of this section shall not be construed to apply to the board of regents of the University of Alaska."?

V. RIVERS: I would object. I understand that there is going to be brought in in connection with the actual indication of the University of Alaska as a state university, and if there

were to be some particular mention, I think it should be made there.

HELLENTHAL: Would you object to it being made anywhere?

V. RIVERS: Not in its proper place I wouldn't, but in this article I would.

HELLENTHAL: Then you will agree with me that somewhere in the constitution it would be proper?

V. RIVERS: I don't say I see a need for it. I said I would not object.

PRESIDENT EGAN: Mr. Riley.

RILEY: At Mr. Walsh's request and to clarify any impressions I may have left a moment ago, I don't see the need for Mr. Hellenthal's suggested language. I would not oppose it but I feel the University is clearly without the contemplation of this language as it has been presented by the Committee.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: To clarify Mr. Walsh, we looked it up in the code book, Alaska Code Book No. 2, and it does provide that the University of Alaska is an Alaska corporation and it is run by the regents and they are appointed by the governor, and has no reference to the executive head of the government.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I would just like to point out that I think we all agree that we would like to see the board of education appointment effective, and I'm not worried about it even with this language that we have, but we should keep in mind that at present there are some 20 boards in the Alaska administration which would also come under this same language if we strike it, and it would certainly hamstring the governor's administration not to be able to approve the heads of a lot of those other departments, so in voting on this you must keep in mind that it is not just the department of education, at present, and if these laws carry over, it's going to be a lot of other boards until we can straighten up our present laws.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, could we have a one-minute recess?

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

RECESS

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

COGHILL: If there are no other delegates that wish to speak on this, I wish to exercise the privilege of having the closing debate.

PRESIDENT EGAN: Is there any delegate who hasn't been heard that wishes to speak on this? Mr. Sundborg.

SUNDBORG: I would like to say a few words, Mr. President. If we should adopt this amendment we would be inviting and opening the way to principal departments of our state running wild without any reference to the policies of the governor; he couldn't say a thing to a man who might be the head of the department of fisheries, for instance, if they were a board of fisheries, as I assume they would be. He couldn't say anything to the head of the department of game about how his department's activities should fit in with those of the rest of the state government. I believe we would soon get back to government as bad and as unresponsible as we have now under the Territory of Alaska if we would adopt this amendment, and I hope we will not adopt it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The one thing that strikes a little fear into my heart in this matter of making such a broad, inclusive destruction of this particular section here by this amendment, is the fact that so many people mention politics getting into this and politics getting into that. The connotation of politics is the science of government, and we must remember if we strike this out, Mr. Sundborg's argument is perfectly valid -- we cannot fix responsibility, and if we are to have the executive that we hope the new state will have, we must be able to fix responsibility or we might as well redraft this whole executive department and do just as we are doing now. To strike this out strikes the very heart out of this section. We are a group of citizenry here who are, by and large, tired of rule by board. It may have been necessary in a protection in past years in order to eliminate too much influence from an absentee governor, or one appointed by absentees, in dominating our Territorial affairs. We have created boards for the purpose of getting away from Washington, D. C., and controlling our own affairs, but when we can elect our own governor, he sets up his upper cabinet and operates the government in conjunction with the legislative branch, we need have no fear that politics are going to get into this in the fashion in which most of the connotation of politics has been hurled here, and I am absolutely opposed, predicated on experience and analysis of this thing, that we strike this particular thing. If Mr. Coghill wants to set aside the Territorial Board of Education, if that is the way it is going to be governed, education by a board, then of course, let him do it by one specific amendment, or let the legislature take care of it. I don't believe that the legislature is going to

invoke the principle of political "ward heeler-ism", or whatever you want to call it, on our board of education or in education. It's been shown in the past that they don't want it that way and I don't believe that this is the way to get at the problem that Mr. Coghill fears.

PRESIDENT EGAN: Is there anyone else who wishes to be heard who has not been heard? Mr. Boswell.

BOSWELL: Maybe I will have to speak on special privilege since I have spoken once.

PRESIDENT EGAN: Are you asking for the special privilege of the floor?

BOSWELL: Well, I just --

PRESIDENT EGAN: If there is no objection, Mr. Boswell has the special privilege of the floor.

BOSWELL: Well, I just wanted to say, I can't speak for the Committee but I know that some language is being drafted to take the University out of this and satisfy Mr. Walsh in that manner, and if the Committee doesn't wish to introduce it, I will be glad to do it as an individual.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to say just a word. I sympathize with Mr. Coghill, as far as the board of education is concerned. However, I can see where this would leave the door open for every board head or every principal officer to be appointed if they are run by a board without any O.K. at all by the governor. I am wondering if it would not be better to put in the words, "appoint the principal executive officer when and as authorized by law". Then it would leave it entirely up to the legislature, if they want to set up a department of education completely independent, that is up to the legislature, and they are the people. They will be the people in the future, they will be the voice of the people. If they want to close the door down and make the others subject to the approval of the governor, that is fine, but at least we will have some out for the voice of the people to be heard in the future. I certainly feel that we must make certain allowances, otherwise we are going to tie the whole thing up and probably have some of our departments that shouldn't be politically operated, they still will be subject to politics.

PRESIDENT EGAN: Mr. Coghill, if no one wishes the floor you may make the closing argument if you so desire.

COGHILL: Mr. President, it looks like I stand alone on this issue. In closing, I would like to point out to the delegates

that in Section No. 16 we have set up, "The head of each principal department shall be a single executive, unless otherwise provided by law. Such single executive shall be nominated and appointed by the governor...." On Section 17 we have put a board at the head of these principal departments, and it is the head of that board that is responsible to the governor for the coordination of his executive branch with reference to that particular department. We are using, in reference to the board of education, we set up a board of education; we provide for a head of that board; they in turn hire an executive head. This executive head carries out the intent of that board and there is no reason why the governor should approve them because actually according to the way this section is written, he will not be sitting on the board, on the governor's cabinet or his executive committee or whatever it might be. The board is the one that is responsible to the governor, and in turn the board will meet and elect a president or chairman of the board, and he is the one that is responsible to the governor and not the executive. The executive has got to have one head that he will be responsible to. Is he going to carry out the wishes of this nonpartisan lay board or is he going to carry out the wishes of the governor? He will be in turn carrying out the wishes of the governor that are directed to him through the board and keeping in line their complete program, in consistency. That is why I have introduced the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Point of information. I would like to address a question to Mr. Coghill.

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

BARR: Mr. Coghill, I agree with what you have said, but this board sits for only a short period. When they are not in session then who is running our department of education here in the Territory?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Barr, with reference to the board of education which I am familiar with, the executive officer, our commissioner of education is running the department by the program set forth in the board's meeting that they have annually.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to ask a question please of Mr. Coghill.

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

TAYLOR: Mr. Coghill, do you think it would be necessary under the state that we would have to have a board of education, that it would be just as advisable to have a commissioner of education answerable to the governor?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: No, I don't. I believe we should have a board of education. I believe we should have a board of education appointed from different parts of the Territory to sit in an advisory capacity.

TAYLOR: Is that answer based upon the fact we have had a board in the past?

COGHILL: No, that is answered on the basis that we have, out of the 48 states, a large majority run by boards.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" All those in favor will signify by saying "aye" --

COGHILL: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 4 - Coghill, Cooper, Kilcher, Londborg.

Nays: 50 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 1 - McNealy.)

CHIEF CLERK: 4 yeas, 50 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 17?

R. RIVERS: May we have a two-minute recess?

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have a proposed amendment on the Chief Clerk's desk?

CHIEF CLERK: Mr. Robertson has one but I don't have it.

R. RIVERS: I offer mine now, Mr. President.

CHIEF CLERK: Mr. Robertson had already been recognized.

ROBERTSON: I think Mr. Rivers had the floor before I did.

PRESIDENT EGAN: That is correct, Mr. Robertson. The Chief Clerk will please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 17, page 8, line 9, at the end of the section, add the words 'except that such appointments by the Board of Education or the Regents of the University of Alaska need not be so approved by the governor.'"

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

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

WALSH: I second the motion.

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

TAYLOR: I am going to vote against the amendment because it is absolutely useless, uncalled for and would have no effect whatsoever as the University is not a part of the Territorial government whatsoever; it is an independent agency.

R. RIVERS: May I open the argument, Mr. President?

PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: Mr. President, both Mr. Walsh and Mr. Coghill have a real point here, notwithstanding the fact that Delegate Fischer does not think that education is a "sacred cow". The very power of the legislature which creates a corporation known as the University of Alaska with the power to own land, to sue and be sued, has the power to dissolve that corporation. Mr. Walsh wants to be absolutely certain that whatever the governing board of the University is in the future, if that corporation is dissolved and a new administrative setup brought into effect, that the regents or governing board of that University may choose the President of the University without the sanction of the governor. The governor would no doubt have the power of making the appointments of the regents or whatever you might want to call them subject to the approval or confirmation by

the legislature, as would be the case in all those appointments. The department of education will have a board no doubt, and I think the same arguments that apply to the University of Alaska apply to the board of education. I agree with Mr. Sundborg and others that when you are dealing with the run-of-the-mill administrative departments that involve administrative policies and political considerations, as stated in the platforms of the various political parties, that you have got something that bears squarely on the controversial issues of politics. Education, I think, should be governed by a nonpartisan group of men with nothing but the long-range benefits of the particular educational institutions involved. We've been through it before. I feel that if the governor has to put his sanction upon the executive officer of the University or the administration of our schools that you are injecting a political element into that situation, and this is not useless or senseless as Delegate Taylor imports. I think he spoke a little hastily when he said that, and I am always opposed to calling the proposals of other people either silly or senseless, or insane.

TAYLOR: I rise to a point of order. I don't believe I used any of those words.

PRESIDENT EGAN: The Convention will come to order.

R. RIVERS: If I misquoted Mr. Taylor I apologize. I think the apology probably should come from the other direction. Mr. President, this is a serious consideration, and it seems I voted against Mr. Coghill's amendment because I agreed with those who thought that generally speaking on these administrative boards that the governor should have a say-so, but I think there is a very positive distinction between the rest of those boards and the board of education and the regents of the University of Alaska, and I consulted with Mr. Coghill and Mr. Walsh before I submitted this amendment. The wording may not be perfect but the thought is absolutely clear, and if this body agrees with me as far as the importance of this language is concerned, then we will certainly leave it to Style and Drafting to improve the language. Now I might say that where I have said the "board of education", you might say the "governing body of the department of education", whatever the name may be called by the legislature later. I'm not trying to freeze a board of education. Style and Drafting can use a broader term if it sees fit, but the principle I'm pointing out is absolutely clear in my mind and I hope the delegates will consider it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to direct a question to Mr. Rivers.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may address your question.

V. FISCHER: Do you think it is better that the department of education be administered by a board or that it be administered by a single-head executive?

R. RIVERS: I strongly favor the selection of a nonpartisan board from various parts of the Territory, as Mr. Coghill has stated.

V. FISCHER: Mr. President, then I submit that this exception would open the way and probably encourage the establishment of the department of education as a direct staff department of the executive with the appointment of the commissioner of education directly by the governor. If we have any kind of a governor who wants uniformity in his administration he would certainly request that the legislature not provide for a commissioner of education who is completely exempt from his jurisdiction.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I wanted to make a point regarding the University of Alaska, referring back to this language that we're now drafting. Mr. Rivers has said that the legislature could change the University from a corporate body and this among other things will set it up as a corporate body that cannot be dissolved by the legislature and that would be one thing in its favor.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Committee Chairman, I think we have the point covered in the committee article, and in present time, 1935 as I recall, the present board was set up, and in this present setup the approval of the commissioner of education lies with the legislature, but in any session in which I sat, in which a commissioner of education was actually approved, the appointment of the commissioner of education came down through the governor to the legislature. It also says in the same article that the commissioner of education may be removed for certain causes by a majority vote of the board of education, and also, there again by approval of the both houses of the legislature. Now, I think that the present system has worked very satisfactorily. As the article is at the present moment, rather than clearing through the legislature, the board would then clear their appointment through the governor. It would give some cohesion and some coordination to that department of government in connection with the over-all operation of government; therefore, I must oppose the amendment. Our present system is working satisfactorily. The only change, and would have no more political implication in this manner that we set up than it has now, the only change would be the matter of approval. The law could provide no doubt for means of removal, the law providing for the appointment of such a chief executive, and there again I assume it would be similar to what it is now,

recommendation and approval of the majority of the board and by and with the approval and consent of the legislature, I assume.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I move to amend the amendment by striking the words, "the board of education or" therefrom.

UNIDENTIFIED DELEGATE: I object.

RILEY: I second the motion.

PRESIDENT EGAN: Mr. Hellenthal moves, it was seconded by Mr. Riley. The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK "Strike the words 'the board of education or' so that it would read: 'except that such appointments by the regents of the University of Alaska need not be so approved by the governor.'"

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

NORDALE: Mr. President, it seems to me unnecessary to mention the Board of Regents of the University. I think there should be an article in our constitution somewhere setting up the University of Alaska, possibly in similar language to that of the University of Hawaii. "It is hereby established as a state university and constituted a body corporate..." and then it goes on, and that would take care of the University and make it very clear that it can never be dissolved and that it is not part of the executive branch of the government.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: The Chairman of the Ordinance and Transition Committee is not here but I believe that is one of the provisions in the ordinances, the establishment of the Territory University as the State University and that would probably be a logical place to put that in.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That may be all very well. Such a proposal would doubtless be proper, and I would support it if there were a separate inclusion. I would support it unless I felt we were getting over into the legislative field, but I certainly agree with the principle, but I think we should right now give

an expression of how we feel on this matter by including the exception applicable to the University of Alaska. Later, if the proposal comes, then this could be deleted perhaps, and the other one left. That is a matter of Style and Drafting but now this is a question of principle. I support this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: This whole section applies only to three classes of agencies. It applies to principal departments of the state, to regulatory bodies and quasi-judicial bodies. It is inconceivable to me that no matter what the legislature did it could ever put the University of Alaska under one of those three headings, and I am very much afraid here that if we read in here an exception saying that it shall not apply to the University of Alaska, that it would apply or that it could be construed to apply to any other state corporation because we had not excepted that from the language.

R. RIVERS: Mr. President

PRESIDENT EGAN: Is there anyone else that wishes to be heard before Mr. Rivers closes? Mr. Kilcher.

KILCHER: Mr. President, I think that whole question of the last 20 minutes was 10 minutes too long, but I don't understand Mr. McCutcheon's argument even in the former amendment which has bearing on this one, that this question is so vital as to the governor's authority and powers. The governor appoints the board. In nine cases out of 10, if he appoints the board, he will know, he can make his wishes be known whom he wants in there as head of the board, and the governor has the power to appoint the board, not the legislature, so one way or the other, it doesn't make much difference, and as pointed out here the University can be dealt with in a separate article, so let's vote this amendment down and leave this as it is and then vote, if necessary, for a special treatment of the University.

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

HILSCHER: Could we have it read please?

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

CHIEF CLERK: "Line 9 -- add 'except that such appointments by the Board of Regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment as amended will signify by saying "aye", all

opposed by saying "no". The "noes" have it and the proposed amendment as amended has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to announce a meeting of the Style and Drafting Committee for 12:15 o'clock, a luncheon meeting. Subject to other committee announcements I would now like to move and ask unanimous consent that we recess until 1:30 o'clock.

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

COGHILL: Mr. President, your Committee on Administration will have a meeting at 1 o'clock.

PRESIDENT EGAN: Mr. Smith.

SMITH: The Committee on Resources will meet at 12:50 in one of the committee rooms upstairs.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment immediately upon recess.

PRESIDENT EGAN: If there are no other announcements and if there is no objection, the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read any communications that are on her desk.

CHIEF CLERK: All of it?

PRESIDENT EGAN: You might summarize it.

(The Chief Clerk read a telegram from A. W. Boddy, President of the Alaska Sportsmen Council of Juneau urging that certain language be inserted in the resources article.)

PRESIDENT EGAN: The communication is referred to the Committee on Resources.

(The Chief Clerk read a letter from the Alaska Native Brotherhood signed by Mr. Herbert Bradley, Grand Vice President, endorsing the Alaska Sportsmen Council's recommendation regarding the resources article.)

PRESIDENT EGAN: That communication will also be referred to the Committee on Resources. It has attached to it a lengthy explanation of their stand on that same issue.

(The Chief Clerk read a letter from Delegate E. L. Bartlett enclosing a copy of a letter from Congressman Walter Rogers of Texas, acknowledging receipt of the copy of the telegram sent by the Constitutional Convention to President Eisenhower.)

PRESIDENT EGAN: The communication may be filed. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: If not, does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: No report, Mr. President.

PRESIDENT EGAN: We will hold the report in abeyance. Are there amendments to Section 18 of Committee Proposal No. 10/a? Mr. Robertson.

ROBERTSON: I have an amendment to Section 17.

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

CHIEF CLERK: "Section 17, line 4, after the word 'be' insert the words 'citizens of the United States and'."

ROBERTSON: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson for the adoption of the amendment. After the word "be" on line 4 insert the words "citizens of the United States and".

CHIEF CLERK: Between "be" and "nominated".

ROBERTSON: I ask unanimous consent.

PRESIDENT EGAN: Mr. Robertson asks unanimous consent that his amendment be adopted. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Are there other amendments to Section 17? If not, are there amendments to Section 18?

HERMANN: I have an amendment.

PRESIDENT EGAN: Mrs. Hermann, you may submit your amendment. The Chief Clerk may read the proposed amendment as offered by Mrs. Hermann.

CHIEF CLERK: "Section 18, on page 8, line 16, after the word 'unless' insert the words 'the appointee is confirmed by the legislature or'."

HERMANN: I move the adoption of the amendment.

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

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "On page 8, line 16, after the word 'unless' insert the words 'the appointee is confirmed by the legislature or'."

HERMANN: Mr. President, the purpose of the amendment is to make it possible for the legislature to confirm the person who has been given an interim appointment. As it stands, they would not have that opportunity.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Mr. Victor Rivers.

V. RIVERS: It's just a matter of form. In line 13 where you find "the consent of the senate or of", it was the opinion of the Committee that in adopting that general article the other day we covered that, but this should have a little special wording. We would strike the words "of the senate or of" and insert the words "of either house of the legislature or the legislature in joint meeting", because some acts are apt to call for approval by either house or the legislature in joint meeting and in that way he could still make his interim appointments.

PRESIDENT EGAN: Did you offer the amendment?

V. RIVERS: I ask unanimous consent. In line 13, strike the words "of the Senate or of" and insert in lieu thereof the words "of either house of the legislature or". I ask unanimous consent.

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

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard.

V. RIVERS: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Rivers moves, Mr. Knight seconds the motion. Mr. White.

WHITE: May we hear how it would now read?

PRESIDENT EGAN: Would the Chief Clerk please read that portion as to how it would read if the amendment were adopted.

CHIEF CLERK: "Line 13 'with the advice and consent of either house of the legislature or the legislature in joint meeting'."

PRESIDENT EGAN: If there is no discussion -- Mr. Sundborg.

SUNDBORG: I would like to discuss it a little bit. Mr. Rivers, what would the occasion be in which one or the other houses of the legislature would confirm an appointment? Do we have anything in the constitution?

V. RIVERS: We do not have anything in the constitution, but we are trying to provide for the governor to fill vacancies. It is entirely possible that there will be legislation introduced that says that this appointee shall be confirmed by the senate or by the house or by the legislature in joint session, so this particular wording, we wanted to cover those three contingencies, in the event they were included in any law he could still fill the vacancy. It was not thought to be controversial, it merely clarifies.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Before going ahead, I would like to ask Mr. Rivers if the words "in joint meeting", line 14, is equivalent to "joint session" as we have used it in other places.

PRESIDENT EGAN: Could you answer that, Mr. Rivers?

V. RIVERS: I did not get the question, Mr. President.

PRESIDENT EGAN: Mr. Davis.

DAVIS: The word "meeting", Mr. Rivers, in line 14, it now would read "the legislature in joint meeting". I am wondering if that is equivalent to the words "in joint session" as we have used it the other places in this same article?

V. RIVERS: Yes, it is. It might be something for Style and Drafting, and they would probably adopt uniformity in that wording, but the intent was "in joint session". Some state constitutions use the terms "by joint vote", and there are other methods and other wording which covers it. Delegate Riley had a suggestion which I might mention here. Do you want to mention

that?

PRESIDENT EGAN: Mr. Riley.

RILEY: I am operating on the premise that if we adopt this section I would like to have it clear and complete. I am not out of sympathy with this particular provision, although even though this is adopted I may later move for its striking if others don't, but I think that while we are considering it, there is one omission and that is that it occurs to me that this section is wide open to misinterpretation. It reads "either house of the legislature or the legislature in joint session", I assume, but there is no provision for a legislative provision in the individual case. I think "as prescribed by law" might somewhere there improve it.

V. RIVERS: I have no objection.

PRESIDENT EGAN: At the end of the sentence, Mr. Victor Rivers?

V. RIVERS: Yes.

PRESIDENT EGAN: After the word "meeting" strike the period and add the words "as prescribed by law"?

V. RIVERS: Yes, I would ask unanimous consent to withdraw my first amendment and include that as a part of it. Would that be all right?

PRESIDENT EGAN: Your amendment is pending at this time. If there is no objection, the words "as prescribed by law" will be made an addition to the proposed amendment. Is there objection? If there is no objection it is so ordered and those words have become a part of the proposed amendment. The question is -- Mr. Hurley.

HURLEY: May we have the thing read now as it would sound throughout? We got into trouble once before on a deal like this.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence as it would read now if the amendment would be adopted.

CHIEF CLERK: "The governor may fill any vacancy occurring in any office during a recess of the legislature, appointment to which is made by the governor with the advice and consent of either house of the legislature or the legislature in joint meeting as prescribed by law."

PRESIDENT EGAN: Mr. Victor Rivers, are you satisfied with that particular -- if there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce that a group photo of the entire Convention will be taken on Wednesday at 10:30 a.m. All 55 delegates are requested to be present. It will be taken inside on the staircase. With relation to this amendment, Mr. Victor Rivers.

V. RIVERS: We discussed this during the short recess and we feel that while the wording is rather bulky there now and it needs some revision in Style and Drafting, the intent is clear. There were some suggestions made but we felt that without further time taken on this, this would cover it and the matter could be somewhat condensed in Style and Drafting, but the intent here is clear as to our thoughts.

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

TAYLOR: Mr. President, I am preparing an amendment that I think will possibly meet the objections of a lot of them, if I can have just a minute, and I'll offer that as an amendment.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I would like to ask a question of this. If this amendment goes in, we have an appointment which is made by the governor with the advice and consent of either house of the legislature or the legislature in joint session or meeting. Now, we could have the legislature in session and you could read that that the governor could go to the senate and get it confirmed and not worry about the house or he could go to the house and not worry about the senate or he could go to the joint session, and I don't think that is the intent either.

SUNDBORG: It says, "as prescribed by law."

PRESIDENT EGAN: Mr. Marston.

MARSTON: Even it seems fouled up to me -- this language -- it must be.

PRESIDENT EGAN: The Convention will be at recess then for a minute.

RECESS

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

JOHNSON: Mr. President, in order to expedite the business of the Convention, I will withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent

request for the adoption of this proposed amendment? Mr. Victor Rivers.

V. RIVERS: I will now ask to withdraw the proposed amendment because there is going to be one there that will cover it in a manner acceptable, I am sure, to all of us.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to withdraw the proposed amendment. If there is no objection it is so ordered. Mr. Victor Fischer.

V. FISCHER: I have an amendment on the desk which has been there since before the recess. I would like it read.

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

CHIEF CLERK: "Strike Section 18."

V. FISCHER: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Fischer moves, Mrs. Hermann seconds the motion that Section 18 be stricken, be deleted from the proposal.

V. FISCHER: Mr. President, all I would like to say is that we presently have a law to this effect on our statute books. It was enacted by the last session of the legislature. I do not see why we must enact things like this which we have in our regular enactments of the legislature, why we must include them in the constitution. I think the discussion here has shown the difficulties and problems that may arise out of bringing in this kind of detailed procedure. I think that the subject can be very adequately covered by legislation.

PRESIDENT EGAN: Is there further discussion? Mrs. Nordale.

NORDALE: I favor leaving it in. Any act of the legislature can be removed by the succeeding legislature. We are setting up a strong executive and we are requiring that most appointments be confirmed in some manner or other. In the constitution it is by joint session. There may be many laws setting up other positions which will require only confirmation by only one house or the other. But nonetheless, I think that the people have a right to expect the governor will submit his appointments to the legislature for confirmation when that is part of the constitution. This is not without precedent may I say. The New Jersey Constitution which is reputed to be very short and concise and contains almost the identical language.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will say a few words along the same line, that this is one of the essential powers of the executive that we felt should be included in the constitution and we feel, as Delegate Nordale has stated, that while an act could be passed it might be changed and altered materially through the years, and that the governor with a different composition of the legislature from time to time might be faced with difficult problems of making interim appointments. It seems to us in the Committee, essential that we provide the power for making interim appointments when the legislature was not in session and also provide that the governor could not make interim appointments, jump the time the legislature was in session and then make another interim appointment of the same man. This does take care of that situation.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, we are, apparently, all of the opinion that we should have a strong executive and we have therefore given to the governor the power of appointment not only of the boards but of all of his officers of principal departments and minor departments. I think the mere statement that this is the law that we have at the present time is sufficient to describe it as a statutory measure and as a statutory measure it does not belong in the constitution. Any attempt to put into the constitution, a law, an actual statute that is already in effect, can only be construed to mean that we are substituting statutory law for fundamental law, which is what the constitution should contain. That is why I seconded the motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, deleting Section 18 from Committee Proposal No. 10/a, 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. Are there other amendments? Mr. Taylor.

TAYLOR: I would like to offer an amendment to Section 18.

PRESIDENT EGAN: It has been deleted, Mr. Taylor.

TAYLOR: I will withdraw.

PRESIDENT EGAN: Are there amendments to Section 1 of Committee Proposal No. 10/a? Mrs. Nordale.

NORDALE: Mr. President, do I understand that that last amendment deleted the entire section? Then the governor has no authority to make interim appointments at all, is that correct?

PRESIDENT EGAN: Unless it is covered by statutory law, Mrs. Nordale.

The action of the Convention deleted Section 18, that is correct.

NORDALE: I just wanted to be clear on that.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: With respect to Section 17, lines 4 and 5, how do they read according to our Chief Clerk? Did we, in other words, amend that by providing with the advice and consent of the legislature in joint session?

CHIEF CLERK: That motion the other day that was adopted changes that automatically.

SUNDBORG: Is it the understanding of the Chairman of the Engrossment and Enrollment Committee that that will be done in each place where there is a mention of advice and consent of one of the houses?

SWEENEY: I have been making my corrections in ink when they have been adopted, and the one we were talking about this morning and also a couple of items in Section 18, where we added in the legislature meeting in joint session"; we talked about those and I put them down just as question marks, and so my understanding is there has been no change made in 17 except this addition of "citizens of the United States and" in line 4. Now the journal can show different.

CHIEF CLERK: No, it does not.

SUNDBORG: We adopted a motion by Mr. Victor Rivers saying that it is our intention to have that language changed, but I believe we have to do it specifically, don't we, Mr. Rivers?

V. RIVERS: In this proposal it was the intention that where we mentioned "confirmation" and "advice and consent of the senate" that the words be changed to "legislature in joint session", in this Proposal No. 10/a.

SUNDBORG: Is that sufficient to carry the language right into the proposal in the view of the Chairman of the Engrossment and Enrollment Committee? Would you write that in, in view of the action that we took on Mr. Rivers' motion?

SWEENEY: Not unless the body adopted it. It was my understanding that it was not adopted by the body.

CHIEF CLERK: Do you want me to read the motion that was adopted on Saturday?

PRESIDENT EGAN: Please.

CHIEF CLERK: "Mr. Hellenthal moved that wherein Committee Proposal No. 10/a: 'Confirmation of a gubernatorial appointment is required of either or both houses of the legislature or both houses jointly, then in those cases it shall be the policy of this body that such confirmation be made by both houses of the legislature in joint assembly.' Mr. Taylor seconded and on voice vote the motion was adopted." Does that change it?

SWEENEY: Yes, that would change it, and the Chief Clerk would so indicate on her copy of the proposal that the Engrossment Committee gets.

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

HURLEY: Mr. President, may I speak on personal privilege?

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

(Mr. Hurley spoke under the question of personal privilege.)

PRESIDENT EGAN: The Chair has been thinking about that since Mrs. Nordale asked the question. There is a statutory provision at the present time that covers that and the transitional measures, I mean, if that is the wish of the body in striking Section 18, the transitional measures will probably call for the adoption of all Territorial laws, laws on the statutes to become the law of the state. Mr. Buckalew.

BUCKALEW: I am a little worried about Section 18. I doubt seriously if the governor would have authority to make a recess appointment.

PRESIDENT EGAN: Mr. Buckalew, isn't it true there is a statutory provision that gives the governor of Alaska a right to make interim appointments now and that if the laws are carried over into the new state government by the transitional measure, he will still have that authority?

BUCKALEW: The only thing that worries me is, suppose we don't carry over that particular statute? Suppose we don't adopt that statute?

PRESIDENT EGAN: It seems to me we would be in trouble more ways than one. Mr. Victor Rivers.

V. RIVERS: Before we put this section into the executive, I might answer Mr. Buckalew's question. I went through the hearings on the executive that we have in the State of New Jersey constitutional books upstairs, and the arguments were presented there as to what the powers of the government would be in the recess appointments in filling vacancies and I intend to go up there as soon as we have another recess and try to pick out that language because there are two or three cogent

points that I believe the body should know, and after making a brief talk on them I am probably going to ask that we rescind our action on that motion because I believe it will convince you that there are reasons why this section should be in to give him the power of filling a vacancy in recess appointments.

BUCKALEW: Mr. President, I wonder if Mr. Taylor had an amendment which I think would certainly cure any problem that might arise. I wonder if Mr. Taylor would now offer his amendment to Section 18.

TAYLOR: I would offer it but it would take a motion to rescind the former action before this could be, because 18 was wiped out, and so we only now are bound by the provisions of the code which will be carried over into the state.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to offer to Section 18 which will not require any rescinding and which I think will take care of the problem.

PRESIDENT EGAN: You are offering a new Section 18, is that right Mr. Sundborg.

SUNDBORG: Yes sir.

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

CHIEF CLERK: "Section 18. The Governor may fill any vacancy occurring in any office during a recess of the Legislature, as may be prescribed by law."

PRESIDENT EGAN: Mr. Sundborg, what is your pleasure?

SUNDBORG: I move the adoption of the amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the adendment, seconded by Mr. Buckalew. Mr. Victor Rivers.

V. RIVERS: That amendment does nothing more than give him an implied power that is already here. It doesn't take care of an appointment he may make. Suppose the governor makes an appointment of "Joe Doaks" to be a secretary of some department, or head of some department, the legislature does not confirm him. The governor submits no new name; the legislature goes out of session; the governor then turns around and reappoints "Joe Doaks" interim head until the next session of the legislature meets. By our wording we have taken care of that. By this wording it takes care of nothing that is not already an implied power. The

legislature already has the power to provide by law.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: My amendment would give the legislature the power to take care of that by whatever language or provision it desires. It does give the governor the right to make an interim appointment and then it says that the rules governing such interim appointments shall be laid down by the legislature.

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 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 amendments to Section 1, Committee Proposal No. 10/a? Or Section 2? Mr. Doogan.

TAYLOR: Mr. President, I had one to clarify a matter that was brought up I would like to offer an amendment.

PRESIDENT EGAN: Mr. Taylor, the Chair had recognized Mr. Doogan and he has an amendment on the desk, if you could just hold that a minute. Will the Chief Clerk please read the amendment as offered by Mr. Doogan to Section 2.

CHIEF CLERK: "Section 2, lines 4 and 5, strike the words 'and shall have been for at least seven years'. Line 6, put a period after the word 'State' and strike the balance of the sentence."

DOOGAN: I move its adoption.

DAVIS: I wish you would read it as it will appear.

SWEENEY: Point of order.

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

SWEENEY: We struck the same language that Mr. Doogan plans to strike in the first half of his amendment now. The only difference being is the change from 20 to seven years.

PRESIDENT EGAN: Did we have any amendment, Mrs. Sweeney, that deleted the whole statement relative to years?

DOOGAN: Yes, we did.

PRESIDENT EGAN: Didn't we have an amendment that sought to do that previously?

SWEENEY: It did strike it, Mr. President.

PRESIDENT EGAN: Did it strike it entirely?

SWEENEY: It struck "and shall have been for at least twenty years" and then it was changed and reinserted with "seven years".

PRESIDENT EGAN: There is a serious question in the mind of the Chair but that your point of order is well taken, that to strike "seven years" now, after we had acted on striking this entirely -- the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair will rule that inasmuch as we have deleted this entire wording once relative to any number of years, that amendments could be offered to make it 19 years or one year or two or three years, whatever you would like, but in order to accomplish what Mr. Doogan is attempting to do would take a motion to rescind the previous action in which we had inserted this language again. Mr. Doogan.

DOOGAN: I don't quite know how to handle this. I will start off by serving notice I will move to rescind.

PRESIDENT EGAN: Mr. Doogan, it will take 28 votes to carry a rescinding action at this time, also 28 votes to carry a rescinding action tomorrow.

DOOGAN: All right, I will then move that the action we took in inserting "and shall have been for at least seven years" be rescinded.

PRESIDENT EGAN: Mr. Doogan moves that the action on that particular amendment be rescinded. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the Convention rescind its action taken in inserting those words in the section?" Mr. Doogan.

DOOGAN: If I may state my reasons for asking that this be rescinded, I have heard only two arguments for having this qualifying language in there. One of the arguments was that they did not want a national figure coming to Alaska sweeping the Territory and getting in as governor. My feeling on the matter is that if a national figure such as Warren or Stevenson, somebody of that caliber came up here and could sweep the Territory and get to be the governor of Alaska, first by being put up by one of the major parties and second, by being elected by the people, he is well entitled to the job and we should be thankful to get him. The other argument that I have heard is that at one time they were going to move a bunch of displaced

people into the Territory of Alaska and they felt those people should have to reside here something longer than what it would require for them to be citizens before they could get to be governor of Alaska. I maintain that if one of those displaced people could come here, serve their five years to get their citizenship, be put up by one of the major parties for governor, be elected by the people, he is certainly entitled to the job. I feel that qualifying language like this is not a discrimination against a person that wants to be governor. I feel it is a discrimination against the people who we are representing. We have voted in another article to give the people suffrage. We have lowered the voting age to 19 years of age. If we are going to give the people suffrage let's give them full suffrage. Let's let them by their vote pick the person who they want for the governor of Alaska without any qualifications attached to it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, that really would be something if we could elect anybody without any qualifications whatsoever. As it is right now he does not even have to be a qualified elector. He could come up here and run for governor. I would like to call your attention to the legislative article which we let go through second reading with the understanding that the representatives and the senators should have resided in Alaska at least three years immediately prior to filing for office, and I don't think we should have anything less than that for the highest office of the land.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: In reference to what Mr. Londborg has just said, as I understand it, the motion we have before us now would not touch the seven-year residence requirement, would it?

PRESIDENT EGAN: That is true, it would not touch it.

SUNDBORG: It is just a motion to rescind our action of several days ago when we inserted "and shall have been for at least seven years" which refers to a citizen of the United States and not to the resident. He would still have to be a resident for at least seven years even if we rescind.

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, if I may clear this up, if this motion to rescind carries, I propose to offer another amendment to put a period after "state and delete the balance of the sentence and the end of the section.

SUNDBORG: But that is not embraced in this motion?

DOOGAN: No.

PRESIDENT EGAN: Mrs. Sweeney had been attempting to get the floor.

SWEENEY: I do not believe that Mr. Doogan withdrew his original motion which had both sections in it so probably that is where the confusion has come in. As I understand it, we are just talking about this first portion.

PRESIDENT EGAN: Mrs. Sweeney, it was not necessary for the motion to be withdrawn because the motion was never seconded, but the second part of it is not in the motion. Mr. Victor Rivers.

V. RIVERS: As I listen to these arguments, I recall one rather serious situation we had some years ago in which one of the Secretaries of the Interior, and if I recall right, it was Secretary Ickes, had proposed and recommended that Alaska be made a penal colony, as they used to do in the old days in England. They sent a lot of their convicts over to Australia, and the motion got some consideration back in Washington, and it looked at that time as if we might have to take some action on it, so the local bodies in various parts of Alaska did take action on it, and sent in considerable protests and the individual, and as I recall, I'm pretty sure it was Ickes, finally dropped the proposal, but these things I think are basic, and I notice that practically all constitutions have some residence requirement in the state, even though they are in a general area which has similar economic and geographic characteristics. We are in an entirely different situation up here. It seems to me it has been the temper of the majority of the body to open the gates wide open in the name of liberality, but there are considerable values attached to the customs, the traditions, and the precedent of having had, or seeking at least to insure, that we would have a bona fide resident run for office who understood something of the problem.

SUNDBORG: Point of order.

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

SUNDBORG: I believe that has nothing to do with the motion that is before us. The motion has to do with having been a citizen of the United States for seven years.

PRESIDENT EGAN: In the Chair's opinion Mr. Sundborg's point of order seems to be well taken because the seven-year residence in Alaska will still be required even if this motion carries.

V. RIVERS: Well, I might just say then that the New Jersey

Constitution has used the word "seven"; the Hawaii Constitution has used the term "twenty years of United States citizenship" and a great many of the other state constitutions require United States citizenship as a precedent to be allowed to even file for governor.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I understand that if this motion carries it shall be entirely stricken from here "and shall be at least seven years a citizen of the United States"?

NORDALE: No.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as offered and then read the section as it would appear if the amendment is adopted.

CHIEF CLERK: "Section 2, lines 4 and 5, strike the words 'and shall have been for at least seven years'."

PRESIDENT EGAN: Read the section as it will appear if this amendment carries.

CHIEF CLERK: "The governor shall be not less than thirty years of age, a citizen of the United States, and a resident of this state seven years next preceding his election."

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

UNIDENTIFIED DELEGATE: How do we vote on this, to get a rescinding action?

PRESIDENT EGAN: That is right, it is a motion to rescind. Shall we rescind the action taken on the amendment that inserted "seven years a citizen of the United States"? Mrs. Sweeney.

SWEENEY: Mr. President, voting "no" means that you want to leave "seven years" in there.

PRESIDENT EGAN: Voting "no" means that you want to leave "seven years" in there, that is correct. Mr. Hellenthal.

HELLENTHAL: Just briefly, we have got to make a distinction here. There is nothing wrong as I see it, that is my opinion, with requiring a residence requirement for an elective office like your governor, your senators, your representatives, but appointed officials are in an entirely different category, so I distinguish between those elected and those appointed, and I see nothing wrong in a residence requirement for an elected official.

SUNDBORG: Point of order.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think Mr. Hellenthal was not speaking on this at all. This has nothing to do with a residence requirement.

PRESIDENT EGAN: There seems to be so much confusion that the Chair is going to declare a three-minute recess so the people can get what this proposed amendment does clear in their mind.

RECESS

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the Convention rescind its action taken in adopting the previous amendment to Section 2?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 14 - Buckalew, Doogan, V. Fischer, Hurley, Kilcher, Laws, McLaughlin, McNealy, Nordale, Peratrovich, Riley, Smith, Sundborg, Mr. President.

Nays: 37 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, King, Knight, Lee, Londborg, McCutcheon, McNees, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Sweeney, Taylor, Walsh, Wien.

Absent: 4 - Hilscher, Stewart, VanderLeest, White.)

CHIEF CLERK: 14 yeas, 37 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the rescinding motion has failed to pass. Mr. Johnson.

JOHNSON: Mr. President, I have an amendment with reference to Section 2.

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

CHIEF CLERK: "Line 7, page 1, after the word election, strike the period and insert a comma and the following words 'and be a qualified elector'."

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JOHNSON: I move the adoption of the amendment.

ROBERTSON: I second it.

PRESIDENT EGAN: Do you ask unanimous consent, Mr. Johnson?

JOHNSON: I ask unanimous consent.

BUCKALEW: I object.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent, objection is heard. The motion is open for discussion. The question is, "shall the proposed amendment as offered by Mr. Johnson 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 2? Mr. Taylor.

TAYLOR: I have an amendment, Mr. Speaker, it is very short. I move that the words "this state" in line 6 of Section 2 be changed to "Alaska". That is for the purpose of clarification. The other day there was some question as to whether or not they would have to be a resident seven years of the state. This would be "of Alaska" which would include both the state and Territory. I ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent.

BUCKALEW: I object.

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

TAYLOR: I so move.

KNIGHT: I second the motion.

RILEY: Matter of inquiry, Mr. President. Was "of this state" removed?

CHIEF CLERK: No, not on line 6.

PRESIDENT EGAN: It is the recollection of the Chair that those words are still in there.

CHIEF CLERK: "And of the state" at the end of line 5, those words were stricken.

RILEY: And they now appear on 6.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I might say I had this prepared but we got off of Section 2, and so I was holding it until we came back over it again.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All in favor of adopting the proposed amendment will saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 2? If not, are there amendments to Section 3? Section 4? Mr. Harris.

HARRIS: In Section 3 we use the words "of this state" again. Perhaps we should make the same change and be consistent all the way through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wonder, Mr. President, if you would indulge me for a moment. I am sure Style and Drafting will take care of matters like that without action on the Convention floor.

PRESIDENT EGAN: Are there amendments to Section 4? Section 5? Mr. Kilcher.

KILCHER: Mr. President, point of information. I have a note here that I remember of a conflicting interest clause that was mentioned that it might appear at some other place here. I think Mr. Rivers had given me an answer in that respect. Should there be a place in this article or some other place in the constitution?

PRESIDENT EGAN: Mr. Victor Rivers do you care to answer that?

V. RIVERS: I have discussed a number of times a conflict of interest clause, but we had no intention of bringing it into this article. It is possible that some other group will bring it in. Whether they do or not it would be to their judgment as to whether they should bring it in under their particular sections. I don't know if there are any bringing it in. I did mention it in debate.

KILCHER: Thank you.

PRESIDENT EGAN: Are there amendments to Section 5? Section 6? Section 7? Section 8? Section 9? Mr. Sundborg.

SUNDBORG: Mr. President, yesterday at a meeting of the Style and Drafting Committee we were working on the article on the judiciary; there is a provision in that saying that the compensation of judges and justices shall not be reduced during their terms of office unless by general law applying to all officers of the state. The point was made that if we provide here in

Section 9 that the compensation of the governor and secretary of state shall not be diminished even by a general law, which is the way it reads now, that that provision in the judiciary article would be nonoperative because such a general law would not apply to all officers of the state. I would like to know what the Convention wants to do. Do you want to except only these two officers from the provision that there may be a general reduction for all officers of the state, in which case we had better change it in the judiciary article because it could not apply to all officers of the state if it is by the constitution not applicable to the governor or to the secretary of state.

PRESIDENT EGAN: The Chair recalls that matter was discussed. Mr. Rivers, was it you that explained that?

V. RIVERS: I was looking up another item. Would you explain the question again?

SUNDBORG: I'm afraid I couldn't do it again. There is a conflict between the language in Section 9 here which does not provide for the diminishing of the salary of the governor and secretary of state during their terms of office in any event, and the article on the judiciary which provides that the compensation of judges may not be reduced during their terms of office except by general reduction applying to all officers of the state. If you don't make it apply, you cannot make it apply to the governor and secretary of state, it can't apply to all officers of the state and therefore can't apply to judges, but we do have it written into the judiciary article.

V. RIVERS: Well, as I explained that the other day, it was the intent of the Committee that when a man ran for office his salary would not be diminished until his term was over. But as I see the clause, an act could be adopted which would reduce the salaries of everybody but would not become effective until the time of this secretary and governor's term had ended. There may be a conflict there, but it does not seem to me so. These offices are elective offices, the others are appointive offices.

SUNDBORG: The judges are elective.

MCLAUGHLIN: May I inquire through the Chair of Mr. Sundborg, is it your intent to ask for the unanimous consent of the body that the Judiciary Committee change the intent of that provision currently in the judiciary article so we can say "all salaried officers except the governor". Isn't that your intent?

SUNDBORG: That was my inquiry to ask if we may not do that.

MARSTON: Mr. President, I don't see any reason why we are excepting these two people right here. I think they ought to

go right along with the rest of them and let the language cover everybody. I offer that amendment right now and ask unanimous consent.

PRESIDENT EGAN: How is it worded, Mr. Marston?

MARSTON: To strike "they are not exempt".

PRESIDENT EGAN: A period after the word "law", is that what you wish?

MARSTON: That is right and delete the rest of the sentence.

PRESIDENT EGAN: Mr. Marston moves to insert a period after the word "law" and the balance of the section be deleted from the section. Do you so move, Mr. Marston?

MARSTON: I so move.

PRESIDENT EGAN: Is there a second to the motion? It will delete the words "and shall not be diminished during their term of office". It would cover it because then the judiciary article would cover it. Mr. Victor Rivers.

V. RIVERS: Well, again we discussed this at some length in Committee.

KILCHER: Point of order.

PRESIDENT EGAN: Your point of order.

KILCHER: Do we have anything before us?

PRESIDENT EGAN: Was the motion seconded?

KNIGHT: I will second it.

PRESIDENT EGAN: It was seconded by Mr. Knight. Mr. Rivers.

V. RIVERS: Again, we discussed this at some length in Committee. I really shouldn't restate that because I guess it means very little, but the thought here was that with an opposition group in both houses they could diminish the salary of the governor and his secretary of state at will and the thought was here it should not be diminished during his term of office. I don't speak for the whole Committee but I would certainly have no objection to including the words "unless there is a general salary reduction of all state officials". It would not appear to me to be able to work an injustice in that matter, but if we adopt this amendment, I think a great injustice could be worked. I don't think it would be worked very often, but it could be worked unless we make some provision to cover diminishing, and I would not favor the amendment.

HELLENTHAL: Could we have a recess for one minute?

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. Marston.

MARSTON: Mr. President, with the consent of my second, I wish to withdraw my amendment and add this one.

PRESIDENT EGAN: Mr. Marston asks unanimous consent for the withdrawal of his proposed amendment. Is there objection? Hearing no objection it is so ordered.

MARSTON: "Section 9, line 20, delete the period, insert a comma and add 'unless general law applying to all salaried officers of the state.'" I so move.

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

KNIGHT: I second the motion.

PRESIDENT EGAN: The Convention will come to order. The motion is open for discussion. Mrs. Nordale.

NORDALE: I am opposed to the amendment. I think if a man runs for office and is elected, he runs with the understanding that he is going to receive a certain amount of money. In the case of a governor he moves his family to the capital city and expects to stay there for four years at a certain salary that he knew existed before he ran, and I certainly don't think that his salary should be diminished during the four years. If the legislature passes a law reducing that salary at the close of the current term of office of the governor, that is something else again, and I think that is quite all right; then he can make his choice at the end of his term whether he wants to run for office again at a lower salary, but while he is in office I don't think it should be reduced.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: In 1932, right after Roosevelt took office, during a great financial emergency, the federal government graded all salaries down 10 per cent from the President on down. I was a new district attorney at that time and came under that 10 per cent cut for about a year and one-half until the emergency eased off and they restored the full salary. In our judiciary article we discussed that and had that very thought in mind. A man who gives up a law practice to become a judge rather counts on having that salary intact, and our article on the judiciary says that it shall not be reduced during the term of office unless by a reduction applicable to all officers. In case of emergency the governor may want to be in with everyone else on that kind of a financial crisis for a reduction of salary, so let's leave it open to have it happen right during

his term of office and put him on the same basis as the judiciary.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Marston be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 9? Section 10? Section 11? The Chief Clerk will please read the proposed amendment to Section 11.

CHIEF CLERK: Mr. Hellenthal proposes the following amendment: "Section 11, strike lines 25 and 26, page 5, and strike lines 1, 2, and 3 on page 6, and substitute 'The governor, as provided by law, shall nominate, appoint and commission all officers of the armed forces.'"

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

HELLENTHAL: I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

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

HELLENTHAL: The present language dignifies flag officers and general officers in the state militia, I believe, out of proportion to the need. The matter is primarily legislative, especially on the state level and especially in a state where the federal government beyond any doubt would take full command of the military in case of trouble, and I just hate to think of some governor appointing Alaskan colonels or admirals in the Alaskan navy. I don't think it is necessary.

JOHNSON: Mr. President, may I inquire as to the exact wording of the suggested amendment?

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

CHIEF CLERK: "Strike lines 25 and 26, page 5, and strike lines 1, 2, and 3 on page 6, and substitute "The governor, as provided by law, shall nominate, appoint and commission all officers of the armed forces.'"

JOHNSON: Mr. President, I think that I shall support this amendment because it takes away the necessity of the governor, apparently it does anyway, submitting these nominations for confirmation by a joint session of the legislature, and I am certainly in favor of that.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I note that the way the amendment reads, it seems a little incomplete. It reads "officers of the armed forces". I think it should have at least "of the state" in it.

HELLENTHAL: Yes, "of Alaska".

PRESIDENT EGAN: If there is no objection the words "of Alaska" will be made an addition to the proposed amendment. Is there objection? Is there objection to adding those two words? If not, it is ordered and the words have been added to the proposed amendment. Mr. Victor Rivers.

V. RIVERS: Is it on the floor for the discussion?

PRESIDENT EGAN: Yes.

V. RIVERS: All you are doing by the amendment, as I see it, is taking out the confirmation of the adjutant general, perhaps one or two other officers from the legislature. The governor here appoints the adjutant general under this amendment and he does not have to have the approval of the legislature for that appointment. That is a relatively important office in our Territory or what would be our state government. I oppose the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: I believe that Mr. Rivers overlooked one other thing. The amendment allows the governor to appoint and commission all officers. Now that would be the final authority. You just can't do that under the laws of the United States. These higher ranking officers, the appointment has to be sent in to Washington and approved there before they can be commissioned. That is why this committee report was worded this way. The higher ranking officers had to go to Washington for approval but the governor can appoint colonels and lower without that.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Now that everybody has got it fouled up, forgive me, I retract that whole statement. Mr. Chairman, I know something of the matter of which Mr. Barr speaks and the others. There are two types of services in the National Guard. You have the Alaska National Guard and you have the National Guard of the United States. It becomes too complex to discuss the matter. I would recommend the adjutant general of the state normally would be a brigadier general; properly he should be, and any flag officer is the equivalent of a brigadier general. General officers traditionally are provided in the state constitution for appointment by the governor and ratification by the senate. We are running counter, we are literally running

counter to the experience of most states in deliberately doing that. That is, I don't think the adjutant general should be any different from the head of a department, as he would be in the state, and I think that he should be ratified, and I believe that Mr. Hellenthal's objection largely is to an expression such as "flag officers". If that is an objection, it can be cleared up by generic words in Style and Drafting. I oppose the amendment as being contrary to what we have done here in the past as to other officers.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 10 or Section 11? If not, are there amendments to Section 12? Section 13? Section 14? Section 15? Section 16? Mr. Metcalf.

METCALF: May I ask Mr. Rivers a question?

PRESIDENT EGAN: You may, Mr. Metcalf.

METCALF: Mr. Victor Rivers, you say the head of each principal department, does that include the attorney general?

V. RIVERS: By specific mention of the will of this body the attorney general is not included in this section.

METCALF: Does he have to be confirmed by the senate at all, or the legislature?

V. RIVERS: Insofar as he would fall under the head of one of the principal departments, I assume he would.

METCALF: You assume he would be one of the heads of the principal departments?

V. RIVERS: It is merely an assumption.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: The attorney general question worries me very much, and I would like to submit a small amendment. It is three words, that is all.

PRESIDENT EGAN: Would you submit it please, Mr. Metcalf.

CHIEF CLERK: "Section 16, page 7, line 14, immediately following the word 'Department', insert the phrase 'including the attorney general'."

PRESIDENT EGAN: Mr. Metcalf, what is your pleasure?

METCALF: I move that it be adopted and ask unanimous consent.

BUCKALEW: Objection.

DOOGAN: Point of order.

PRESIDENT EGAN: Objection is heard. Your point of order, Mr. Doogan.

KNIGHT: I second the motion.

DOOGAN: My point of order is that we have already considered this matter once, and I take exception to the remarks by the Chairman of the Legislative Committee in that this body by their action implied that the attorney general would not be one of those principal departments. I take exception for this reason: that is, as it was so aptly pointed out by Mr. Davis, the thing they did not want to do was to set up the attorney general's office in the constitution but it could be set up as one of the principal departments.

PRESIDENT EGAN: As to the point of order raised by Mr. Doogan, we did consider spelling out that there be an attorney general once before in this section, did we not? Mr. Ralph Rivers.

R. RIVERS: I was about to offer an amendment so I got talked out of it, so it is the first time it has come up.

PRESIDENT EGAN: If this is the first time, the point of order would not be well taken at this time. Mr. Taylor.

TAYLOR: I was going to raise the same point of order as Mr. Doogan, but I think I am going to go even further because there was a specific amendment offered to provide for the establishment of an elected attorney general.

PRESIDENT EGAN: This does not say though, Mr. Taylor, that he would have to be an elected attorney general.

TAYLOR: Mr. Barr's motion to adopt an amendment to that effect would be.

PRESIDENT EGAN: But Mr. Metcalf's amendment does not include anything of that nature, so the amendment would be in order at this time, Mr. Taylor. Is there discussion of the proposed amendment as offered by Mr. Metcalf? Mr. Metcalf.

METCALF: I feel that mention of the attorney general's office should be made because we have mentioned it in the proposal under direct legislation, and in initiative and referendum, I think we mentioned it once or twice there. I am confused as to whether the senate is to ratify the nomination once every two years or once every four years. I am in a state of confusion

and I would like to have this spelled out a little more as far as this important office is concerned. That's my feeling on the matter.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: May I speak on this matter now. I don't believe that it is necessary to put an attorney general in there. If you do that you might as well put all the branches you are going to have, all the principal branches of the executive department in because it naturally falls into the category of one of the principal branches of the legislature, and I think we considered that the other day. It was felt that it was a legal department of the executive branch and should not be necessarily named because the governor would have the right under our present article to appoint the attorney general who sets up the legal department of the executive department, and I can't see whether if you add that attorney general on there including the attorney general, you had better put it including the highway department and all other things. I think we should leave it the way it is, and the other things will naturally follow and fall into the proper category.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Metcalf 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 16? If not are there amendments to Section 17? Amendments to Section 18? Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment.

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

CHIEF CLERK: "Strike Section 18 and substitute the following:

'Section 18. The Governor may make ad interim appointments to fill vacancies occurring during a recess of the legislature in offices requiring confirmation of either or both houses of the legislature. The duration of such appointments shall be prescribed by law.'

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

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the proposed amendment, Mr. Rivers seconds the motion. The motion is open for discussion. Mr. Sundborg.

SUNDBORG: Mr. President, a little while ago I submitted another

amendment which I thought accomplished what this says, but I was advised by some of the technical staff it did not actually accomplish what I had intended, in that it left the possibility present that the legislature could by law actually prohibit the governor from even making a recess appointment under the existing language. This new section says that the governor may make a recess appointment but that the duration of the appointment shall be determined by the legislature.

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

CHIEF CLERK: "Section 18, strike Section 18, and substitute the following: 'Section 18. The Governor may make ad interim appointments to fill vacancies occurring during a recess of the legislature in offices requiring confirmation of either or both houses of the legislature. The duration of such appointments shall be prescribed by law.'".

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

HELLENTHAL: Why the use of the last "ad interim", is that consistent with procedure as advocated by Style and Drafting?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Was the question addressed to me, Mr. Hellenthal?

HELLENTHAL: Yes.

SUNDBORG: I don't think Style and Drafting really adopted any standard in this matter and this is the phrase that was suggested to me by two of the technical experts and which I asked Mr. Rivers, the former attorney general what he thought of it, and he said he thought it was just right so I submitted it in that form.

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

KILCHER: May the Chief Clerk please read it once again?

JOHNSON: Point of order. The roll call has already been commenced.

PRESIDENT EGAN: That is correct.

KILCHER: May I abstain?

PRESIDENT EGAN: Continue with the roll call.

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

Yeas: 35 - Armstrong, Awes, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Lee, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nordale, Peratrovich, R. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 13 - Barr, Boswell, Collins, Knight, Laws, Londborg, McCutcheon, McNees, Nolan, Poulsen, Reader, V. Rivers, Taylor.

Absent: 6 - V. Fischer, Riley, Stewart, VanderLeest, White, Hilscher.

Abstaining: 1 - Kilcher.)

LONDBORG: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Londborg asked that his vote be changed to "no".

CHIEF CLERK: 35 yeas, 13 nays, 6 absent, and 1 abstaining.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 18? Are there any other amendments to Committee Proposal No. 10/a? If not, the proposal is ordered referred to the Committee on Engrossment and Enrollment. We now have before us Committee Proposal No. 9.

CHIEF CLERK: No, it is 12. That is next on the calendar.

PRESIDENT EGAN: Is 12 next on the calendar? The Chair stands corrected then. Mr. Rivers, was it your desire that those proposals come next?

V. RIVERS: We will hold to whatever the calendar prescribes. I understood that 11 and 12 would come up next.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading -- Mr. Sundborg.

SUNDBORG: I move that the rules be suspended and that the Committee on Style and Drafting be instructed to insert "secretary of state" at points in the article on initiative and referendum

where the words "attorney general" appears.

GRAY: I second the motion.

PRESIDENT EGAN: It has been moved and Mr. Gray seconds the motion that the word "secretary of state" be inserted in lieu of the words "attorney general" wherever they may appear in the article on initiative and referendum. Is there objection to that request?

TAYLOR: I object.

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

R. RIVERS: I would like to back up the motion because I objected earlier in the day that we should have the attorney general draw the ballot heads and check the sufficiency of that proposed initiative bill, etc., but after I decided not to do anything about inserting "attorney general" in this section, it becomes necessary in the interest of consistency to say that those matters will be referred to the secretary of state who in turn can obtain the advice of the attorney general.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed motion as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of adopting the motion will signify by saying "aye".

SWEENEY: It is a suspension of the rules and I don't know how you could do it on a voice vote.

PRESIDENT EGAN: The Chief Clerk will call the roll on the adoption of the motion.

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

Yeas: 46 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Walsh, Wien, Mr. President.

Nays: 4 - Cooper, Robertson, Sweeney, Taylor.

Absent: 5 - Hilscher, Riley, Stewart, VanderLeest, White.)

CHIEF CLERK: 46 yeas, 4 nays and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and it is so ordered. The Chief Clerk may proceed with the second reading of Committee Proposal No. 12.

UNIDENTIFIED DELEGATE: No, it should be 11.

PRESIDENT EGAN: You said that No. 12 was the next one on the calendar. The Chair does not have a copy of the calendar.

CHIEF CLERK: On the calendar it was 12, I am sure.

PRESIDENT EGAN: Whatever the calendar says. Mr. Cooper.

COOPER: Might I ask a question. On the previous vote prior to this last roll call, I was just sitting here listening to the results announced. I was quite sure it was 35 ayes, 18 nays, and 1 abstaining, and there were 6 at the time that were absent.

CHIEF CLERK: 35 ayes, 13 nays, 6 absent, and 1 abstaining.

COOPER: Thank you very much.

PRESIDENT EGAN: The Chief Clerk may then proceed with the second reading of Committee Proposal No. 12. Don't you think Committee Proposal No. 12 should be considered possibly after we get to transitional measures? Mr. Victor Rivers.

V. RIVERS: I think, speaking for the entire Committee, we would be perfectly willing to be governed by the Rules Committee selection for placing on the calendar in these matters. If there is a better order I think we will all agree to it.

PRESIDENT EGAN: All right, you may read it then.

(The Chief Clerk read Committee Proposal No. 12 in its entirety at this time.)

PRESIDENT EGAN: Mr. Victor Rivers, do you care to proceed with an explanation of the proposal?

V. RIVERS: I will try and explain as we go along the Committee's intent and purpose. The first clause, as you can see, would require that the state establish a civil service or merit system for its employees. It comes to my mind in reading it, and we had some brief discussion on it as to its interpretation applying to high appointive and elective officers under the state, I believe that that should either be specifically exempted if we do not agree that it is the intent that the word "employment" covers those people who are not elected or appointed to high offices. The question of the value and the use of the word "employment" there and where it would terminate has to be considered. The Section 2 is membership in employees retirement systems. In some of the retirement systems, there

was fear by some bodies that the legislature having the power to do so might abolish such a retirement system and they might then lose the benefits or the values of the monies they had paid into such a system, although it was a contractual relation, and they might lose the benefit retirements thereunder. I mentioned specifically in that category the present retirement fund for teachers and educational groups. The other section is an antisubversive section which is required, as we understand it, one of the required clauses of this constitution, and that is Section 3. Section 4 is of a similar nature and prescribes a standard clause for the oath of office to be taken by officials of the state government. Section 5 was included because we felt it was necessary to insure that we could have relationships with other states and possibly along our boundaries, with foreign countries such as Canada, within the limits prescribed by the national law. It so happens that some of the constitutions which do not state "respective legislative bodies may appropriate such sums", the court in some cases has held to a narrow interpretation that the legislature under their state constitution could not appropriate funds for uses outside of the state in the manner in which we have allowed them to do under this section. That is the reason for including this section in the constitution. There are court interpretations that would work against the use of any state monies for such cooperation unless we had such a clause in the constitution. I think that covers briefly the Committee thinking on it. We did not discuss the scope of the word "employment" too broadly in Committee in the Section 1.

PRESIDENT EGAN: Are there any questions to be asked of Mr. Rivers, the Committee Chairman? Mr. Coghill.

COGHILL: Mr. President, I would like to ask Mr. Rivers in Section 5, sir, on your last line, "In all intergovernmental relations involving the state, the Governor shall act as the agent of the state." He can delegate his power to one of his department heads, is that not true?

V. RIVERS: That is our understanding. I might say, under the Enabling Act, there are going to be rather broad transfers to the state of certain properties, equipment, and other things that are now in the hands of various departmental agencies functioning in Alaska. I refer specifically to equipment of Fish and Wildlife Service and some of the various highway agencies and others. They would have to be acknowledged and received by somebody for the state. This clause is intended to cover the governor in as the agent of the state in such matters.

JOHNSON: May I ask Mr. Rivers a question, please?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: Mr. Rivers, with respect to Section 4 which covers the oath of office, I notice that there is a slight variance, I think, between the wording here and the customary wording. You say, "I will support and defend the Constitution of the United States..." Is not the term "and laws" -- for instance, "I would defend the Constitution and laws of the United States ..." Is that not inserted?

V. RIVERS: This was lifted, as you can readily see, from the standard form, and I'm not sure. This one did not include it. I presume it does include it in some. I think I would like to ask some of the other Committee members on that. Mrs. Nordale, do you recall the adaptation of this section? Is it from the Enabling Act?

NORDALE: My recollection is we took it right out of this bill. I think it is the same as the Hawaii Constitution. I will see if I can find it.

PRESIDENT EGAN: Are there other questions to be asked of the Committee? Mr. Fischer.

V. FISCHER: Mr. President, in Section 2, this would cover the eventuality that if one of these retirement funds ran out of money payments could be deferred? I mean a deferment of payment would not constitute an impairment of the obligation?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We discussed that point and we thought that under this clause, as I recall the general thinking of the Committee, that "shall not be diminished or impaired" would mean that we realize if the state went defunct, as I explained to some of the individuals who discussed it with me, if the state did go bankrupt in the sense that we visualize the state going bankrupt, they could not meet the obligation, but as long as there was monies in the funds they could and would. Of course, it has never been the history of any state that has occurred, and I don't foresee that it will occur here, but the question of the use of the word "impaired" that Mr. Fischer has raised may be a good one. It may be they could defer, under the word "impair", certain payments. They could not be diminished in the over-all payment, but they could be deferred if the fund went down. This section, I believe, will stand considerable discussion by all interested parties because it is an effort to try and protect those people who for many years pay into a fund and are entitled to receive the benefits under that contract, but still we can see the possibility that there might be a reduction of state revenues or the revenues of that fund to the point where they might have to reduce payments for a time. It was, as I interpret the thought of the Committee and recall it, it was the thought that, if there were any obligations like that reduced temporarily, they would later be

paid. I think the employee's retirement system, we felt in Committee the use of that terminology did not bring in under this section any of the National unemployment tenefits or employment security benefits that are paid by the national act. I hope I have answered the question.

PRESIDENT EGAN: Are there further questions to be directed to the Committee? Mr. Hellenthal.

HELLENTHAL: Was this matter of cooperation with foreign nations copied from any other state?

V. RIVERS: No, it was not. Most states of course, except along the northern and southern boundaries of the United States, have no problem where there must be some cooperation. It is highly limited under the National Constitution. It was foreseen and discussed in Committee that there are many places, doubtless, in negotiations between the Canadian government and our government, where we might desire to have one of our state officials intervene for the state and he might be required to travel to Washington D. C. or Ottawa or some place to speak for the people of Alaska within the limits of the National Constitution, and for that reason it was included, Mr. Hellenthal.

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

GRAY: Did you have specifically in mind, Mr. Rivers, the Yukon or the International Fish Commission, is that what these apply to?

V. RIVERS: We thought there were a number of places in which the state might desire to intervene, watersheds of the various rivers was one. Another one was in regard to the shore line, as you all realize now there is considerable discussion as to what amounts of entry through the various bays and harbors should be granted to the Canadian dominions, and if so what returns in the use of watershed power would be allowed to the Territory or the future State of Alaska. It seemed to Committee it was desirable to allow our legislature to appropriate monies for such intervention as the National Constitution would allow in behalf of the people of Alaska.

HELLENTHAL: What would that consist of, Mr. Rivers? Was any inquiry made to determine what intervention would be permitted by the National Constitution?

V. RIVERS: It was merely discussed. The extent and scope of that would be limited by the Constitution, but I cannot tell you what the scope would be.

HELLENTHAL: Didn't the Committee have in mind more that you would like, perhaps, the possibility of sending an observer?

V. RIVERS: Both that and intervention, somebody to speak for the will and wishes of the people of Alaska. Maybe some of the other members of the Committee would like to amplify on that, or answer.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, the Committee realized that the state would not have the power to sign any treaties or anything of that sort. That is up to our State Department, but before we reached that point we thought the state should be able to negotiate or sort of come to a meeting of minds on any particular matter that would be of interest to the State of Alaska. For instance, we share power sources, that is waterways with Canada, and fishing grounds. One thing that comes to my mind, especially, is in the matter of civil defense in the case of a mass evacuation, our governor would have to act quickly and he could negotiate with British Columbia and the Yukon Territory on the matter of housing, or such things as our civilians going out over the highway or by air. He should have the power to negotiate that way.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Did -- you have read the commentary on Section 5. Mr. Hellenthal?

HELLENTHAL: Yes.

NORDALE: I believe it was this same type of thing with which the states cooperate, educational matters and things that are pertinent to the welfare of both adjacent provinces. I am sure we had no idea that the state would ever have the authority to step in on a matter that was strictly the province of the federal government.

HELLENTHAL: I would not dream of that either.

NORDALE: No, I wouldn't either, really, but we also did provide that money could be appropriated to finance any program of cooperation on the part of our officials.

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

ROBERTSON: May I ask a question of Mr. Victor Rivers?

PRESIDENT EGAN: You may, Mr. Robertson.

ROBERTSON: In Section 1, does the Committee intend to offer an amendment so it won't be applicable to the two elected positions of governor and secretary of state, and also these people from outside who seem to be so concerned about receiving appointments as heads of the principal departments?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: At the time we drafted this section we did not know just how many would be elective and how many would be appointive, but after we have gone through this, and in our next regular recess which is coming up shortly, I am going to ask the Committee for a brief meeting to cover the limitations we want to impose under that term "employment". I announce that meeting immediately after we recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess. Mr. Sundborg.

SUNDBORG: First of all, I would like to announce a meeting of Style and Drafting at the rear of the gallery during the forthcoming recess. I would also like to suggest that under our new rule this is probably the recess at which any delegate who has a proposed amendment should discuss and clear it with the Executive Committee.

PRESIDENT EGAN: If there are any questions or proposed amendments, please discuss them with the Committee during this recess. Therefore, the recess will last until 3:50. The Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there further questions to be directed to the Committee? Mr. Robertson.

ROBERTSON: I would like to inquire of Mr. Victor Fischer whether or not his Committee gave any consideration to the report of the Resolutions and Recommendations Committee which reported that Proposal 10, which was apparently the origin of your Section 5, was not constitutional matter and shouldn't be included in the constitution. We had that advice from a consultant, Henry Sheldon [Dr. Sheldon Elliott] and Mr. Sady also more or less told us.

PRESIDENT EGAN: The Convention will be at ease for a moment or two. The Convention will come to order.

V. RIVERS: Well, Mr. President, are we still in the discussion state now?

PRESIDENT EGAN: We are, Mr. Rivers.

V. RIVERS: In discussing this in the recent recess, after further discussion on Section 1, it was decided, with the advice of the consultants, that the present terminology covered the power of the legislature to place such limits upon the scope of the civil service system as they so decided because

the section says, "The legislature shall provide for a merit system..." That is a similar wording but not the same. The implication is similar to that of Hawaii and also of New Jersey. But we thought, after discussion there was an amendment submitted to us that might put in the words "except the principal officers of the state government as prescribed by law". The merit system is being prescribed by the legislature, and the term "employment" would be the term of employment up to the level they decided they should reach and also they, by their act, could not defeat or alter any of the intent of the appointive or elective officers as set up under this constitution. I asked them if the executive heads of departments as appointed by various boards could also be considered under that, and they so advised that the word "employment" could be limited to whatever top level of officers that were not treated by the constitution, and could be limited to stop at whatever top level of employees they wanted it to stop at. So the Committee has decided to stay with Section 1 as it is now shown on your draft. The other point had to do with Section 5 and it covers Proposal No. 10 by Delegate Fischer in which the other committee decided it was not constitutional matter. That is the item that Mr. Robertson just called to my attention. We went into it somewhat further after that proposal by Mr. Fischer was referred to us, and we found that there had been limitations imposed on interpretations by courts that limited the power of the legislature to appropriate monies for such actions, so we felt it desirable to include it so the legislature might appropriate funds as necessary for cooperation with other states and the national government. That point was discussed further, and Delegate Hellenthal felt that and to the extent consistent with the laws and the Constitution of the United States and of foreign nations was a matter that might give rise to some question in the minds of some of the Congressmen in reviewing this section. The Committee felt that perhaps they would like to have a little discussion of that item on the floor inasmuch as Delegate Davis also brought up a point. The Committee is willing and agreeable if after such discussion you want to put a period after "interest" and strike the balance of the line. We are in agreement that if it is the consensus of this body that we do so, we will go along with that. The thought there in Committee was that we would not want to put into the constitution anything that would alarm or possibly antagonize any of the members of Congress who are going to be considering this section, and as Mr. Hellenthal pointed out, it might alarm them to see that we are going to be allowed to participate even to the extent of the laws of the Constitution of the United States with any other nation other than that of the United States or its subdivisions. There was another point brought up and that was that Delegate Johnson wanted the words "Constitution of the United States and laws of the United States" inserted in the oath. Delegate Nordale quoted the oath as you take it and the word "laws" does not appear in there. We felt that the word "Constitution" covered all the matter that would

be implied by laws of both the state and the national government when you adopt and subscribe to the Constitution, it being the power from which all lawmaking springs. I don't recall the exact words of the oath of allegiance to the flag which we take, but it does not include the word "law", so the question of the insertion of "laws" after "Constitution", we felt the word "Constitution" covered all the laws that had sprung from it and that the words "laws" would not be necessary in the oath. I think that covers the things we discussed in that brief committee meeting, except for this one thing. It has been pointed out here and discussed earlier in the other section on the executive that we were going to introduce a section having to do with the University of Alaska. There has been such a section prepared and it was our thought that at the end of this section, after consideration of Section 5, we would then add Section 6 and present it to the body for consideration, and by that time we will have mimeographed copies for everyone. Oh, they have already arrived.

PRESIDENT EGAN: Are there further questions to be directed to Mr. Rivers relative to this proposal? If not, Mr. Rivers, is your Committee ready to have the proposal before the body in second reading and open for amendment after your Committee amendments have been considered?

V. RIVERS: There was just one thing, Mr. President, that gave me rise for a little consideration and pause and that was that during the time we were sitting, some of the members of Style and Drafting sent over word there were about three other miscellaneous provisions that they would possibly want to include under "miscellaneous". I see the Chairman of the Rules is not yet here. The suggestion was made that this section be held up until the very last of the basic articles or proposals of the constitution have been adopted and then try to group in there any inconsistencies or other miscellaneous sections, so I am not going to recommend for myself or the Committee on that point, but leave it exactly up to the rules and the body as to whether or not they want to do that. It seems there are going to be a few things come up and they should probably all be included under one miscellaneous group, and this is the miscellaneous group we are acting on now.

PRESIDENT EGAN: Mr. Rivers, even in the absence of the Chairman of the Rules Committee, don't you think it would be quite easy to get an expression from the delegates at the present time? I think it is a reasonable request.

V. RIVERS: I think it should be considered now before we go ahead on this section.

PRESIDENT EGAN: The Chair might put the question to the body as to whether or not it is the wish of the body to hold Committee Proposal No. 12 in abeyance until such time as all the

substantive proposals have been considered by the Convention. All those in favor of holding Committee Proposal No. 12 in abeyance until that time will please raise their hand. It seems to be almost a unanimous feeling that your suggestion would be followed, Mr. Rivers. That being the feeling of the body --

V. RIVERS: If that is the feeling of the body, I would now suggest that we now consider that one-paragraph item known as Committee Proposal No. 11 which deals with the interim election of the governor.

PRESIDENT EGAN: Mr. Rivers, as the Chair recalls, that was referred to the Committee on Ordinances after it was brought in. Is that a correct recollection?

CHIEF CLERK: That is right.

V. RIVERS: That was re-referred? Then I withdraw that last request.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: A point of information. Will Article 12 be referred back to the Committee for the inclusion of all these other miscellaneous matters before we again take up Article 12?

PRESIDENT EGAN: If there is no objection, and in order that the Committee might gather these matters together for inclusion in Committee Proposal No. 12, if there is no objection, the proposal will be ordered referred back to the Executive Committee until such time as they deem proper to bring the proposal back to the floor. Hearing no objection it is so ordered and we will now proceed with Committee Proposal No. 9, the proposal on finance and taxation. Mr. Nerland.

NERLAND: I have a request to make before we have Proposal No. 9 read. Inasmuch as four members of this Finance Committee are grouped in this immediate vicinity, the Committee has decided and has made arrangements with the others who are involved, that we would like to all group at this table here and I would like to ask permission of the Chairman and unanimous consent that a short recess be allowed.

PRESIDENT EGAN: If there is no objection, we will recess for that purpose, Mr. Nerland.

RECESS

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk please read Committee Proposal No. 9 for the second time.

(The Chief Clerk read Committee Proposal No. 9 in its entirety.)

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, the Committee did not ask for a previous withdrawal of this proposal in order to make several very minor changes. There is a mimeographed sheet now on the desks of all the delegates and I will ask that the Clerk be allowed to read these proposed amendments and that they be accepted unanimously and incorporated as part of the committee proposal.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed Committee amendments to Committee Proposal No. 9.

CHIEF CLERK: "1. Page 2, Section 5: strike Section 5 and renumber subsequent sections.

2. Page 2, Section 8, line 25: after the word 'all', insert the word 'public'.

3. Page 3, Section 9, line 15: strike the word 'national' and insert in lieu thereof the word 'natural'.

4. Page 3, Section 10, line 21: strike 'within one year' and insert in lieu thereof 'prior to the end of the next fiscal year'.

5. Page 4, Section 13, line 24: strike the last sentence and insert in lieu thereof, 'All appropriations outstanding at the end of a period of time specified by law shall be void.'"

NERLAND: I move and ask unanimous consent that the amendments just read be adopted and accepted as part of the Committee Proposal on finance and taxation.

DAVIS: Mr. President, I don't appear to have a copy of that amendment.

PRESIDENT EGAN: Is there anyone else who does not have a copy of the proposed amendments? Mr. Ralph Rivers.

R. RIVERS: I think we ought to go through these one section at a time and everyone be able to write it in at that particular point. Otherwise, we get all mixed up. I want to see what these are, and I have one suggestion to make on the last proposal here.

PRESIDENT EGAN: The Chair wonders, Mr. Nerland, in line with these proposed amendments, it might be well to say, take a five- or ten-minute recess and have the members who have questions relative to the proposed amendments that you offer as committee

amendments at this time, discussed by you and your Committee, meeting in the back of the room.

NERLAND: That would be agreeable, Mr. President, or these are very minor changes and very easily explained.

PRESIDENT EGAN: Before you move their adoption, Mr. Nerland, perhaps you might explain each one of the amendments.

NERLAND: In Section 5 we have moved for the striking of that entire section; that is included in the later portion of a section from the legislative proposal that is being incorporated in its entirety by Ordinances. The wording is identical to our proposal so we request that that section be stricken. The other sections will be later renumbered but for the time being I will refer to them as they stand in our present proposal. In Section 9, page 3, line 15, the word "national" was a misprint. It was the intent of the Committee that that should be "natural". I passed up Section 8. The Committee felt that in inserting the word "public" after "all", making it "all public revenues" would eliminate the question regarding such things as donations or bequests by private individuals that might have specific purposes attached to them. Page 3, Section 10, at the time this section was considered by the Committee it was not the intention of the Committee that the borrowings should be paid back within that same year. It was inadvertently worded that way, but the Committee felt that the need for borrowing in any particular year might not be corrected before the end of that year, but it should be paid back within the next fiscal year. Consequently, we have requested the change to read "prior to the end of the next fiscal year". On page 4, Section 13, line 24, instead of, "All appropriated funds unexpended at the end of a period of time specified by law shall be returned to a state treasury" -- there were several matters involved there. One particular question was that the funds hadn't actually ever left the state treasury, and it was felt that this wording as stated in the proposed amendment, "All appropriations outstanding at the end of a period of time specified by law shall be void", better expressed the ideas and the opinions of the Committee. I ask for unanimous consent that these be adopted.

R. RIVERS: May I ask Mr. Nerland a question? It is on that last one, Mr. Nerland.

PRESIDENT EGAN: You may, Mr. Rivers.

WHITE: Point of order. Mr. Chairman, hasn't this decision been followed with other committee proposals, that by asking unanimous consent, in effect, the rules are suspended and committee deletions or additions are considered as part of the report. They are still subject to amendment or deletion later on.

PRESIDENT EGAN: The suggestion made by Mr. Ralph Rivers previously was that Mr. Nerland explain the proposed amendment and then possibly go on with his explanation of the article and then when we come to the amendment process the Committee Chairman would at that time attempt to ask that the proposed amendment be adopted to that particular section. It depends on what the Chairman, under our new rule, what the Chairman thinks would be best.

NERLAND: We certainly are willing that any of these suggestions are open to amendment when we come to the particular section.

R. RIVERS: I thought by asking you one question I might obviate an objection to your unanimous consent request.

NERLAND: I certainly have no objection.

R. RIVERS: Your last proposed amendment here contains the words "appropriations outstanding", and I was going to ask if your Committee would have any objection to saying "all appropriations uncommitted" because quite often warrants are outstanding that have not come back and actually the money deducted from the treasury yet, or from the Territory's bank account, and the word "outstanding", appropriations are outstanding until the money has been disbursed, but they are oftentimes committed, you see. So I was wondering if you would object to saying "all appropriations uncommitted at the end of a period of time specified shall be voided".

NERLAND: I believe that one of the purposes of this wording was to follow a procedure which I understand has been done by the legislature in the past, is to occasionally pass legislation to the effect that all previous appropriations outstanding are voided.

R. RIVERS: They revert. They no longer can be drawn against. I have picked up a better word -- "unobligated" -- rather than "uncommitted". That word "unobligated" is not in conflict with your thought, Mr. Nerland, and certainly they want to say that where money hangs over, unobligated, over a certain period of time, the appropriation shall come to an end where it may no longer be obligated after that.

V. FISCHER: Point of order, Mr. President.

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

V. FISCHER: I assume that this language as proposed by Mr. Nerland has been approved by the Committee and as Mr. White pointed out, in line with previous practice it might be best to permit them to include it and then amend it when we come to this particular section.

HELLENTHAL: Same point of order, Mr. President. This is hardly the time to urge amendments under the rules.

R. RIVERS: By the time we come to this section, we have lost track of this particular point, and I ask a simple question as to whether they would be willing to use the word "unobligated". I have not had an answer to the question, but I will back away, make no objection, but I will bring this up when we get to Section 13.

V. RIVERS: Mr. President, under the privilege of asking questions, which I understand is in order now, I have a question to ask along the same line.

PRESIDENT EGAN: Mr. Rivers, the Chair allowed Mr. Ralph Rivers to ask a question relative to these amendments that Mr. Nerland had asked be adopted at this time, but the ordinary procedure would be for Mr. Nerland to explain the article and then at the end of his explanation ask then the questions.

V. RIVERS: My question extended to the amendment which they are adopting.

PRESIDENT EGAN: If it extends to the proposed amendment that Mr. Nerland is asking unanimous consent on, you'll be in order, Mr. Rivers.

V. RIVERS: There again to avoid an objection I wanted to ask you if that wording you are adopting now, that if your Committee considered the fact that for a number of years there has been submitted to the legislature the idea of such a thing as continuing appropriations. For instance, we have had a program at different times presented in regard to continuing appropriations for so much a year to a fund for building purposes for the University of Alaska. When it reached a certain amount it could then be expended for a capital improvement which it was intended to construct. I wonder if this wording would eliminate the possibility of the legislature ever setting up a continuing public works improvement programs where they had a continuing appropriation.

AWES: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Miss Awes.

AWES: I think we're back on the same thing we were a couple of minutes ago.

V. RIVERS: Can't we ask questions?

AWES: I thought we were supposed to get the explanation of the Chairman first.

HELLENTHAL: If the Committee wanted to substitute "South Africa" for "United States" everywhere where it appeared in this report, that is their business. We take care of it by amendment after explanation, and I think it is definitely out of order at this time to question it.

PRESIDENT EGAN: Mr. Nerland is asking unanimous consent that these particular amendments become a part of the original Committee Proposal No. 9. Is there objection?

V. RIVERS: I will have to object unless I find out that this is not yet on the floor.

PRESIDENT EGAN: It is not yet on the floor and open for amendment.

V. RIVERS: O.K.

NERLAND: I so move.

PRESIDENT EGAN: Mr. Nerland so moves that these committee amendments be offered as part of the original committee report relative to Committee Proposal No. 9.

JOHNSON: I'll second the motion.

PRESIDENT EGAN: Seconded by Mr. Johnson. The question is, "Shall the amendments become a part of the original Committee Proposal No. 9?" All those in favor of the adoption of the proposed amendments as a part of the original report will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendments are adopted as a part of the original report. Mr. Nerland, do you care to proceed with an explanation of the proposal?

NERLAND: Section 1 of this proposal has been altered slightly from the usual wording of a number of state constitutions and also the model state constitution in that which, as some of you perhaps might have noticed, generally reads, "The power of taxation shall never be surrendered, suspended or contracted away." The Committee felt that definitely the power of taxation should never be surrendered so we inserted a semicolon, but we did feel that there would possibly be occasion and good justification in the future for such things as allowing an industry-wide exemption to encourage new industry to come in and that is the reason for the particular wording there. That is later provided for under Section 4. Section 2 is the wording that is required in House Bill 2535, and I believe no further comment should be necessary on that. Section 3, the committee felt that it would be very desirable for the legislature to establish the standards for the state and the political subdivisions to assess the property for taxation rather than to have various systems and methods used, but there is no intent here to establish the rate

or the amount. Section 4, the thought was to exempt the state in its political subdivisions from taxations under such provisions and such exceptions as the legislature may direct. There are certain conditions under which these properties might be subject to taxation, and the more or less standard phrase of all or any portion probably used exclusively for nonprofit, charitable, cemetery, or educational purposes as defined by law is exempt from taxation and this is the provision that allows for some exemption or inducement to industries or similar things. Section 5 has been stricken as explained. There are certain interests in leaseholds, contracts and other interests in United States lands that are subject to taxation, and Section 6 provides for such instances. Section 7 is to take care of the fact that no public monies, public property, or public credit should be used except for a public purpose. Section 8, "all public revenues shall be deposited in the state treasury without allocation for special purposes, except where state participation in federal programs will thereby be denied." There are some federal participation programs which do require specific things that might conflict with a total prohibition on this subject. You will notice also that we have provided that any funds, which are allocated at the time this constitution is approved, do not come under this provision; as most of you probably know, these particular provisions now are for the tobacco fund for schools and also highway and, I believe, some airports are earmarked. Section 9 is one regarding the contracting of bonded indebtedness, and it was the opinion of the Committee that this should be allowed by law on capital improvements only and should in each case be approved by a majority of the qualified voters of the state in the respective political subdivision to which the question refers, eliminating the exceptions -- in case of repelling invasion, repressing insurrection or defending the state in war, any natural catastrophe, or redeeming any outstanding indebtedness at the time the constitution becomes effective. Our thinking on this particular case was the result of a good deal of consideration. There was some thought of leaving it entirely to the legislature, perhaps with a two-thirds or three-quarters vote, but it was finally decided by the Committee that a referendum be called for and that in each case where the state or political subdivision desire to bond themselves, that the approval by the qualified voters be obtained. I would like to diverge just a minute, along that line; Delegate Ralph Rivers, early in the Convention, gave me some correspondence he had had with a firm of bond attorneys in New York, Wood, King, and Dawson, who had done some work on bond issues for the City of Fairbanks, and, I believe, for other cities in the Territory, and they very kindly offered to make any comments and offer any assistance or suggestions that they were able to from their past experience and all would be done without any charge. As a result, the Committee sent our completed proposal to them before the recess and we have had a reply from them which reads as follows, in part: "We received a copy of the report of the Committee on Finance and Taxation

presenting the article on finance and taxation, and at the outset we wish to compliment your committee on the general form of this article. We were particularly pleased to note that debt to be incurred must be approved by the voters of the state of the political subdivision with certain exceptions specified in Section 11. This is a provision which will react favorably in the future when the state or its political subdivisions are attempting to dispose of its obligations." They go on, however, and say, "However, there is one provision, which while not contained in all state constitutions, is contained in many of them, and we feel that the inclusion of this provision would also react favorably to the benefit of the state and its subdivisions in the eyes of the financial institutions called upon to loan money. This is a debt limit provision. Normally the debt limitation is specified as a particular percentage of the assessed valuation of taxable property. Indebtedness incurred for tax anticipation purposes and debt for public utilities where the only security is the revenue that the public utility would normally be exempted from such a debt limit. In some constitutions, also the limitation of general indebtedness is a certain percentage and an added percentage is permitted for revenue producing projects." The Committee did not include that in our proposal, although at various times we had under consideration specific amounts to include. Our final conclusion was that any particular amount or any specific amount that we might include as a maximum would perhaps be either inadequate, too high or too low, and would not offer any protection either way. We had no basis to include a percentage of the state assessed valuation in view of the fact that we have had no exact figures on total property valuation in the state, and in view of the fact that many states which do not have debt limitations in their constitutions are not high in their bonded indebtedness and the lack of a limit has not given unrestricted rein to creating bonded indebtedness. The Committee decided to omit any mention of a bonded indebtedness or debt limit in this proposal. I believe that that was all the explanation I had in regard to that section. Section 10, the Committee felt that there would possibly arise occasions when tax revenues might not come up to expectation during a particular year and it might be necessary for the state to borrow money which would likely be in the form of notes from banks as has been done in the past, to carry through that particular fiscal year. However, it was the consensus of the Committee that such borrowing should definitely be paid back during the following fiscal year. The next section refers only to the allowance of contracting of revenue debt without the restrictions of the previous section on general obligations. Section 12 --

R. RIVERS: Point of information. Are you using the new section numbers?

NERLAND: I am using the old section numbers inasmuch as they are numbered that way. Section 12 deals with the preparation

of a budget by the governor for submission to the legislature and this was done with the contemplation that the governor would take office approximately on the first part of December and the legislature would convene approximately 30 days later, the first part of January, giving the new governor an opportunity to prepare a budget from the material that was made available to him. Incidentally, there is no intention in this section that the legislature would be restricted in increasing the figures in the budget or the appropriations. Section 13 provided, "No money shall be withdrawn from the treasury except in accordance with appropriations made by law, nor shall any obligation for the payment of money be incurred except as authorized by law." The change and addition of the sentence was previously explained. Section 14 provides for the legislature to appoint an auditor and I believe that this wording and this section is similar to a law that is now in effect. The Committee considered the possibility of leaving it out and leaving it to the present law or such laws as might be passed along those lines but we felt it was something that should be in the constitution as a policy that should be permanent. Section 15 is again in accordance with House Bill 2535 and is a requirement according to that. I believe that covers it.

PRESIDENT EGAN: Are there questions? Mr. Johnson.

JOHNSON: Mr. President, are you going through section by section? Is that the idea?

PRESIDENT EGAN: You may ask your questions beginning with each section.

JOHNSON: I have a question with reference to Section 3.

PRESIDENT EGAN: Are there questions relating to Section 1, first? Are there questions with relation to Section 2? Mr. Taylor.

TAYLOR: I have a question, Mr. Speaker. I would like to ask Mr. Nerland why it is in Section 2, they say "lands or other property belonging to citizens of the United States shall never be taxed higher than the lands of residents of the state". That seems to me a little bit inconsistent. You might be a citizen of the United States at the time or you might be a resident of the other states and still not be a citizen of the United States. Would there be any differential in the tax levy upon the land?

NERLAND: I assume not, Mr. Taylor. I believe that wording was taken exactly from the enabling act.

TAYLOR: I believe, Mr. Speaker, possibly an amendment should be prepared to make those two descriptive words consistent. I believe that would be wrong.

PRESIDENT EGAN: Mr. Taylor, I believe Mr. Nerland will attempt to answer that.

NERLAND: As you know, these various points here that the enabling act states, "The Convention shall provide in said constitution..." and then starts numbering, and this is contained in No. 6 on page 31 and page 32 of the enabling act, and we just lifted it word for word from that act.

PRESIDENT EGAN: Are there other questions or amendments to be proposed?

NERLAND: It is also that exact wording in the Hawaiian Constitution.

PRESIDENT EGAN: Are there questions relating to Section 2, not amendments? Mr. Victor Rivers, did you have a question?

V. RIVERS: No, I have no questions.

PRESIDENT EGAN: Are there other questions relating to Section 2? Mr. Ralph Rivers?

R. RIVERS: Mr. President. Mr. Nerland, would it not be more clear in Section 2 if we said, "The lands and other property in Alaska belonging to nonresidents"? You have to stop and read it twice because you stop and wonder why we are taxing property of people outside the state, but it means the property in Alaska owned by people who live outside the state.

NERLAND: I am sure our Committee would certainly have no objections if it met with the provisions of this or any future enabling act. Could that be left to Style and Drafting more properly?

R. RIVERS: Yes.

PRESIDENT EGAN: Are there questions with relation to Section 3? Mr. Johnson.

JOHNSON: Mr. President, I have a question in reference to Section 3. I believe that our present enabling act in setting up the power of the legislature to levy taxes uses the word "uniform" with respect to assessment and collection and levy. Now, was it the thinking of the Committee that the legislature should still be required in setting up standards for assessment of all properties that those standards should be uniform?

NERLAND: I will ask Mr. White, who was our assessment expert.

WHITE: I hate to answer it as an expert, Mr. President, but the thought of the Committee, Mr. Johnson, here was to stay very carefully away from any uniformity Provisions because that

leads you into a lot of other difficulties that we wanted to avoid. The intent of this section is merely to suggest to the legislature that they should set up standards for assessment. In other words, a handbook providing a method of assessment that would be used by all assessing authorities within the state. Now, if that should lead to uniformity, fine, but we carefully avoided any mention of uniformity here because that gets into other things that we didn't intend to mention.

JOHNSON: Is it my understanding then that the Committee and your feeling is that the word "uniform" is unnecessary, shouldn't be there at all?

WHITE: That is correct.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Was it the intent of the Committee to recommend that valuations be the same throughout the Territory?

WHITE: No, you mean that taxes should be imposed on the full valuation or per cent thereof, the answer to your question is "no". This again merely provides that the same standards, the same method of assessment will be used by all taxing agencies.

HELLENTHAL: Are you aware of the fact that, for example, Anchorage levies and assesses its taxes for the future calendar year in the preceding fall, whereas Seward levies and assesses annually for the prior calendar year?

WHITE: Yes.

HELLENTHAL: Wouldn't this establishment of standards prohibit that practice?

WHITE: Not at all.

HELLENTHAL: What would it do?

WHITE: It merely provides that both assessing agencies, Anchorage and Seward, would proceed with their assessment according to the same methods. It makes no difference whether they are assessing for the year ahead or the year behind. It doesn't say they should use the same percentage of the assessed valuation that they would eventually arrive at. It merely says they should both proceed toward arriving at their assessed valuation via the same method.

HELLENTHAL: What method?

WHITE: The method that would be established by a central agency

of the state.

HELLENTHAL: Pertaining to what?

WHITE: The word "method" is not in here. I think you are getting me into trouble that this section doesn't suggest. This section does not use the word "method". If it did, it might then say, "Anchorage and Seward would have to assess on the same yearly basis."

HELLENTHAL: Now, in Anchorage you self-assess personal property; in Seward you do not. Would you want both towns to self-assess or would you want both towns to leave that up to the assessor?

WHITE: No. If this section is followed, the method of assessing personal property as well as real property would have to be the same in both towns.

HELLENTHAL: How do you define this method? Where does it start and where does it stop?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to try to answer that question. I believe that in using the word "uniform" would not apply to assessments, but I believe that Mr. Helleenthal is driving at the worst use of the uniform type of appraisal for real property valuation. You are thinking in terms of the actual valuation and appraisal rather than assessment of the same, isn't that it?

HELLENTHAL: No.

V. RIVERS: Many states provide for uniform methods of appraisal.

HELLENTHAL: Is that what you mean? Uniform methods of appraisal?

WHITE: That is correct.

HELLENTHAL: Why don't we just say that then?

WHITE: What does that say that this doesn't?

HELLENTHAL: "The legislature shall establish the standards for assessment of all property assessed locally or by the state."

WHITE: Well, just offhand I see no objection to the word "appraisal" except that we are talking about assessment and why not say so?

HELLENTHAL: Perhaps I am getting beyond the scope of questioning.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I don't think you are. I am right now liquidated of property in the State of Michigan, because I am away from there and they are assessing that property with excessive taxation. They raised the prices to 300 per cent over what it was when I lived there and the property adjoining. I have had the law audit, and no relief, so I sold the property and am now liquidating all the property there, because of that very issue and it is very important. I hope there is some way you can stop the board from unduly assessing property to get a higher tax on it. It is very small thinking and it should be prohibited if it can be done. I just liquidated property in the State of Michigan because of that very evil you are trying to avoid there. I hope you can do it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to ask a question if I may.

PRESIDENT EGAN: You may ask your question.

V. FISCHER: I assume the intention of Section 3 is that the legislature shall provide for the establishment of standards for assessment rather than the legislature itself doing it. Possibly that is something the legislature might prefer to delegate to a special commission or to an executive department, the actual preparation of the standards, is that your intent? Should the legislature put it in bill form?

PRESIDENT EGAN: Mr. White.

WHITE: Well, I think the intent is that the legislature "shall provide for". However, I think that is covered by the current wording without the words "provide for". Certainly, I don't think any of the Committee would have any objections to the addition of the words "provide for" if the group felt it was necessary.

PRESIDENT EGAN: Mr. Barr.

BARR: May I add a little bit to that? Now I am not an expert on assessment, but I know what the feeling of the Committee was, I think. The feeling was that the legislature should provide for a method of assessment or appraisal if you wish, and it was generally agreed that assessment and appraisal were rather technical questions. Everyone could not do it and do it properly. If the state provided for it they could have experts work out a system and that system could become the law and perhaps have manuals printed up which would be available to small communities instead of hiring their own experts, which perhaps would be beyond their means, they could go by

the manual. When we say the legislature should provide for it, we mean provide for a commission or one expert to set this system up and then enact it into law probably.

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

TAYLOR: I was just going to elaborate a little bit on the meaning of this, what is meant by "assessment". My interpretation is that it is a system of arriving at the value of the property. Now we know that when they mention "the legislature shall establish standards for assessment of all property assessed", then the legislature will pass an act which will provide a uniform system of which they are going to arrive at the value of property. Now, the assessment necessarily carries with it the fact that there will be a compilation of a tax roll of all the property within the taxing district. That is completed and then there is an appraisal made of the property, appraises its value and then from that the taxing authority will assess so much taxes against it, because they know how much money they have to raise, so they put the millage rate which they are going to assess against that property, so I think the word "assessment" means all of those things. It is a system by which you compile a tax roll, the appraisal and the millage assessment on the valuation of that property.

HELLENTHAL: There is one more question, Mr. White. Why was the principle of uniformity of taxation thought improper or to be avoided?

WHITE: There is nothing wrong with the theory of uniformity of taxation, but taxpayers have recourse to the courts in the event of nonuniformity of taxation. You are amply protected under the Federal Constitution, and you have recourse to the courts. The trouble with inserting a uniformity clause in the constitution is that you then have to set up -- what is the word I am trying to think of -- classification or provision in order to differentiate between different taxing authorities or different types of property to be taxed. For instance, in the local government setup, if you have two different levels of local government taxing the same property at different rates, you have to provide for that. The thought of the Committee was that the uniformity clause didn't add any protection that the people do not already have. Once you insert it you then have to go on and make these other provisions to make the whole matter clear.

HELLENTHAL: A typical uniformity clause says "All taxes levied upon the same classes of property or persons shall be uniform." What is wrong with that?

NERLAND: Mr. Hellenthal, will you repeat your question again, please?

HELLENTHAL: "All taxes levied upon the same classes of persons or property shall be uniform." What is wrong with that type of a clause, a typical uniformity clause?

WHITE: I think it is hard without seeing it in front of me to figure out the right words at all. If I understood you correctly, you would run into the trouble I was just talking about. You are taxing the same people on the same property on two different levels of local government at different rates.

HELLENTHAL: No. Thank you.

PRESIDENT EGAN: Are there other questions? Mr. Victor Rivers?

V. RIVERS: I would like to pursue that a little further without adding to the words of the Committee. It seems to me that standards for assessment and the word "assessment" there and "standards" do not seem to hitch together. One city might have a property evaluation that they assess at eight mills or ten mills. Another city might assess that at 20 mills. The word "assessment", as I see it, would have to be amplified. The valuation, the appraisal by which you arrive at the property might be uniform if you are dealing with real property, but the standards of assessment could never in any way be equal in any given community unless it just happened to be a happenstance. The use of the word "assessment" seems to confuse some of us, including myself, and perhaps some of the other delegates.

WHITE: That was not the interpretation that the Committee gave to the word "assessment"; however, we could stand corrected. The only thing I wish to make clear is that it was definitely not our intent to set mill rates.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Chairman, as I understand the term, "assessment" means the valuation of the property, and when you are talking about mill rates you are talking about levy of a tax, which are two completely different things, as I see this thing. They are saying here that in valuing property, in other words, assessing it, they want uniform standards, or they want certain standards set.

PRESIDENT EGAN: Mr. Nerland, would you answer Mr. Davis's question?

NERLAND: Mr. McLaughlin has discovered a section out of a law dictionary here which states, "Assessment, as used in juxtaposition with taxation in a state constitution, includes all the steps necessary to be taken in the legitimate exercise of the power to tax."

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: All the steps necessary? Then thhat would include the filing of the return; it would include the listing of the property, it would include the claiming of the exemptions; it would include every process in the subject matter, but Mr. White says it was their intention merely to provide for the appraisal of property which is only one facet, as I see it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I am quite sure that the generic definition of "assessment" is, as Mr. Nerland says, that is, it applies to the procedure of taxation. I think he was citing, I believe a Utah case in Black's Law Dictionary, and the general meaning of "assessment" in a state constitution or otherwise, otherwise unexplained does indeed include the substance and procedure from beginning to end of the taxing process.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I submit, Mr. President, that you do not assess property in the sense that they are talking about here. When you assess it you are valuing it. When you assess taxes, yes, you are correct.

BARR: May I read from this manual put out by the PAS on uniformity?

PRESIDENT EGAN: You may. Mr. Barr.

BARR: "Uniformity provisions have generally not achieved their purposes." Then it goes on to say, "It is generally true because of poor assessment methods..." etc. Then it says, "Uniformity provisions have occasionally had the unfortunate consequence of blocking or delaying the use of accepted techniques in the application of other forms of taxation. The difficulty has arisen primarily with respect to the constitutionality of graduated income tax rates. Laws providing for rate graduation and exemptions have run afoul of the uniformity provisions of some state constitutions. Where this has occurred it became necessary either to amend the constitution or tax incomes at a single flat rate." We were trying to avoid confusion later, that is why we eliminated it.

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

HURLEY: I would like to ask, to pursue this uniform business a little bit. The matter of uniformity in arriving at an assessment has always appealed to me as being a desirable thing. Uniformity of levying taxes, or uniformity of millage levies, or uniformity of the amount of assessment, I think probably is not a good thing because of certain tax incentives, but are

you attempting, as I think you are in Section 3, to allow the legislature to provide, for example, that Seward and Anchorage both assess their personal property by the same methods? In other words, they both either use self-assessments or they both use assessment by individuals. And in the matter of real property taxes they both use a given basis of arriving at values. Is that the intent of the thing? And if it is so, is the word "uniform" in connection with that bad?

PRESIDENT EGAN: Mr. White.

WHITE: That is certainly the intent of the section, Mr. Hurley, and the only answer I can give you quickly is that any time you try and stick "uniform" in this paragraph, you run into trouble. This paragraph looks pretty simple, only two and one-half lines, but it has been the subject of more going-over probably than any other paragraph in this article, and it has been through the hands of every consultant we have had here and we played with a lot of different words, and the Committee feels unanimously, I am sure, that these words accomplish the purpose that we intend.

HELLENTHAL: Are those words used in any other state constitution?

WHITE: Not that I know of.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, may I ask a question of Mr. White?

PRESIDENT EGAN: You may Mr. Robertson.

ROBERTSON: Mr. White, I notice in your commentary on Section 3, you say that, "The legislature is authorized to set up, notwithstanding home rule or any system for the selection of assessors, uniform standards of assessment." I don't understand why you leave the word "uniform" out of the part on standards when you say in your commentary that is what you are doing.

PRESIDENT EGAN: Mr. White.

WHITE: I can only repeat my previous answer, Mr. Robertson, the commentary has not been subject to the same fine-tooth going-over as the actual section and that it was our experience that every time we tried to put "uniform" into this section we ran into trouble, and we came to the conclusion the word was not necessary to establish clearly the meaning of the section, so we left it out.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to ask a question. Was it your intention

that all communities assess on the same basis of valuation, that is on full valuation of 50 per cent valuation or 40 per cent valuation or something like that -- was that your intent?

WHITE: That was not our intent. It was the feeling of one or more of the Committee members -- I forget now how many -- that that also might be advisable. The majority of the Committee decided it was not, and we found that one previous section, as we had it worded, did suggest that possibility, so we deleted it and rewrote it, and as it stands now, it is the feeling of the Committee and of the consultants to which we submitted this, it does not say that you have to use the same percentage of assessed valuation in arriving at the final tax.

HELLENTHAL: What consultants have passed on this?

WHITE: It has been through the hands of Dr. [Shelden] Elliott, Dr. [Vincent] Ostrom, Dr. [Weldon] Cooper, Dr. [Dayton] McKean, and Mr. [Jack] McKay.

HELLENTHAL: None present now?

WHITE: That is right.

PRESIDENT EGAN: Mr. White, you stated also, didn't you, that the Committee made up its own mind as to the final wording of the section?

WHITE: Yes.

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

POULSEN: I might put myself on the spot and try to explain this word "standard", but I will try to. As I see it, and the way it was discussed in the Committee, the word "standard" to carry that out may take a good many years before they will really be in top shape, and it will take a special committee over a number of years to study it, to come up with a standard of assessment. The word "uniformity" could be included maybe, or will, for the next two or three or four years, possibly it will be in there and use the same form of taxation, but again the word "standard", it will take a number of years to put it in effect; maybe have a printed booklet that will go out to everybody, there will be no exceptions. Each locality in the Territory, how they'll be assessed, that is pretty hard for me to explain in the right way, but that is what may take 10, 15 years before they'll be ready, the same way we use this word "uniformity" now.

PRESIDENT EGAN: Miss Awes.

AWES: At the risk of being repetitious, I would just like to say a few words about my understanding of what the Committee was trying to do here. We discussed the problem in Committee

and the fact that knowing how to assess property is not only a highly skilled but a most technical field, and there is perhaps no one in Alaska who would be considered a specialist compared to some of the people in the states. I believe that a few years ago that Anchorage hired such an expert, I believe, to come in from the states and assess all the property, and that he worked at it a very considerable time and did a very good job, but then he left without giving the city of Anchorage the key to how he did it, so when new property was built there was no way of knowing what tests and standards were used. It was felt that perhaps in Alaska there is a need to have such experts not only to do the work but give us the standards by which to go by in the future. The city of Anchorage and perhaps three or four of the other larger towns are the only ones that could afford to do this, and we thought that by putting a provision in the constitution that the legislature could set up a program by which such experts were consulted, if they are available in Alaska, all right; if you have to bring them up from the states, the state could afford to do it, whereas the town of Seward, or Nome, or Igiak certainly could not do it. Once the state had hired these experts, have them set up the standards, whether you do it by square foot of concrete or by some other method, then when that program is all worked out, it could be put up in booklet form, or some other method, and sent to all the smaller towns and they would hire their own assessors, but they would have something by which to go, and in each place would not be put to the individual expense.

PRESIDENT EGAN: Mr. Barr.

BARR: I have a good reason here for not using the word "uniformity". I am quoting from the Hawaiian manual. It says, "In Illinois, Michigan, Pennsylvania, Tennessee and Washington, court decisions have prohibited graduated income taxes or classification of property, holding that such measures violated the uniformity clause."

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. President, first, it relates to income taxes, and we are discussing property. Second, the normal clause says "within the same class", which permits classification of property. Now in Illinois they may not have had that language, "within the same class", so I hardly think it is an apt quotation when we are discussing this Section 3.

BARR: When I came to the word "property", I emphasized it so you would understand that.

HELLENTHAL: I caught that.

PRESIDENT EGAN: Miss Awes.

AWES: I was going to raise a point of order. The other night when we adopted new rules, the first rule read, "After a standing committee chairman has explained an article and questions have been answered, a recess shall be called..." Before being adopted that was amended by crossing out the words "and questions have been answered". It seems to me --

PRESIDENT EGAN: With relation to your point of order, now the feeling of the Chair was that the reason those five words were deleted was that someone on the floor raised the question that you will never have all these things answered and that it was ambiguous -- not that questions were not in order but they felt that wording was in the minds of some of us, all the questions would never be fully answered. That was the feeling of the Chair when they were deleted.

AWES: I made the motion. It was not my understanding. I felt that these things could be better brought up in a recess that was called.

PRESIDENT EGAN: Would you ask that we stand at recess now?

AWES: It seems to me most of what has been said is either argument or questions about proposed amendments, and it seems to me it could be brought up better before the Committee in recess.

PRESIDENT EGAN: Are you asking that we stand at recess until 7:00 p.m. Miss Awes?

AWES: I would so move so the Committee could meet and talk to some people.

PRESIDENT EGAN: Miss Awes moves and asks unanimous consent that the Convention stand at recess until 7:00 p.m. Mr. Sundborg in order that the Committee may meet.

SUNDBORG: I announce a meeting of the Committee on Style and Drafting immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: A meeting of the Committee on Ordinances immediately following the recess.

V. FISCHER: Point of information. Where will the Finance Committee meet?

PRESIDENT EGAN: Where will the Finance Committee meet, Mr. Nerland?

NERLAND: Upstairs in the large committee room, immediately.

PRESIDENT EGAN: The Finance Committee will meet immediately upstairs in the large committee room.

NERLAND: I might announce, Mr. President, in meeting now, we will have to adjourn our meeting in time for the members to have their dinner before 7:00 o'clock.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, does that imply all the questions are asked now or will there be another question period after this recess where certain things are brought up? In other words, are we going to have another question period afterwards?

PRESIDENT EGAN: The Chair felt that those five words were stricken because it said "and questions have been answered". Well, they always are not answered, and the thought that it was just because of the wording itself that it was deleted, but the Chair did not feel that questions before we go into actual second reading for amendment purposes meant that they would be out of order.

AWES: I am not arguing with the court's interpretation of that. It just seemed to me that the type of questions and statements being made that it could be handled much more efficiently in Committee meeting.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until 7:00 p.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Nerland, what is your wish at this time, to continue any questioning, or would you rather go into second reading and start the amending process?

NERLAND: Well, Mr. President, we held hearings during the dinner recess, and while we would have no objections to answering any questions at this time, there were a number of suggestions brought to us, and we have a few committee amendments to propose as we go through them.

PRESIDENT EGAN: Would you rather take up the committee amendments as we go through section by section, and as we come to them?

NERLAND: We would like to have the opportunity of presenting the committee amendments as each section is considered -- that is, first before any other amendments.

PRESIDENT EGAN: If there is no objection then, we'll start with the amending process in second reading and start with

Section 1. Mr. Johnson.

JOHNSON: Mr. President, before we do that, I would like to ask one question of the Chairman, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may ask a question of the Chairman.

JOHNSON: Mr. Nerland, with reference to Section 8 -- I believe it's Section 8 now -- it's the one on the matter of bonded indebtedness -- I think you mentioned the fact that you had an opinion from Wood, King and Dawson. I was wondering if anywhere in that opinion they had considered the point of marketability of bonds where there was no debt limit expressed in the constitution, or if that point had come up at all. I know the firm of Wood, King and Dawson; I have been in their office; they are a very fine firm, and I'm sure that I understood you to say in reading from their memorandum that there was some question in their mind as to whether or not a debt limit ought to be expressed.

NERLAND: Well, yes. They did express it in this letter, Mr. Johnson, as I read before, "However, there is one provision, which, while not contained in all state constitutions, is contained in many of them, and we feel that the inclusion of this provision would also react favorably to the benefit of the state and subdivisions, and in the eyes of the financial institutions called upon to loan money." However, the Committee in considering this felt that it would not be advisable in our case here to set either a dollar limit or a percentage limit.

JOHNSON: Well, in other words you don't believe that the failure to set a limit of any kind in our constitution would necessarily reduce the marketability of bonds of our future state?

NERLAND: Well, no, we didn't, and our findings were that in other states that had no debt limit, they apparently did not suffer from that lack of action.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to ask the Chairman of the Finance Committee one question before we go on to the amending process. Mr. Nerland, is it in Section 7 when you referred to the deposit of funds -- is that the section?

NERLAND: Is that the new or the old numbers, Mr. Coghill?

COGHILL: That is the new numbers. What I'm referring to, sir, is, are the funds that are now being allocated, like the tobacco tax and one thing or another, you provided for those special

funds? Is it the Committee's intention that that include the possible public lands that will be granted for school reserve purposes, such as our Sections 16 and 36 of our Territorial statutes or other states have? Do you recognize that as also a special fund?

NERLAND: Mr. Coghill, in this section by section review, when we come to Section 8, unless it is already prepared, the Committee is going to ask for a postponement of consideration of that. We have a number of changes that we shall recommend in that, and if you wouldn't mind, we'd prefer to postpone further questioning on that until that time.

COGHILL: There would be no amendment then, it would be just the thought of the Committee, because there is no assurance that our enabling act is going to provide that the grant of land given to the state -- the new state -- is going to be for school purposes, or just be turned over to the state to have it as state land; but it was a thought that I wanted to clarify in case there was a certain portion set aside for school funds, that it would be recognized as a fund existing when we become a state from Territorial status.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I don't know if I can add anything that the Chairman said, Mr. Coghill, but of course, the Congress could write a hundred thousand provisions in future enabling acts that we couldn't take into account in writing this constitution. The present enabling act and all recent enabling acts contained no earmarked school sections, so that this Committee has not provided for funds that would be thus earmarked. We felt it was safe to assume that the provisions in recent enabling acts are going to be followed in broad outline in that respect. The sale of land from the public domain, five per cent of the land from the public domain, after statehood would be given to state for school purposes, but that would be in compliance with the federal law.

COGHILL: That would be through the general fund, would it not?

WHITE: That's right.

COGHILL: It would be a permanent school fund under the provisions you're talking about? Do you understand what I'm driving at?

WHITE: That would be a further provision, and that could be covered by the language contained in Section 8, "except where participation of federal program will thereby be denied." In other words, the proceeds of the sale of land from the public domain, part of it being given to the state, we would not be entitled to that money under the terms of the enabling act unless it was used for school purposes. Now I don't know if that's a

permanent trust fund or not, but the point is that we couldn't get it unless we did use it for school expense, and this section provides for that.

COGHILL: Yes, I understand that. The thing that I was driving at, Mr. White, was the fact that if Sections 16 and 36 were set aside, as in each township, as an endowment towards our permanent school fund, then this section would take care of it, wouldn't it?

WHITE: It probably would, but moreover I think there is hardly any chance that that would be the case, I think this blanket grant of a hundred million acres will be the case when we get statehood.

COGHILL: I understand about the blanket grant, but if it was, this would take care of the provision.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would like to ask a few questions of Mr. White.

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

KILCHER: I have two thoughts in mind I'd like to have cleared on the record. One is in Section 9, when you talk of "capital improvements specified therein" in laws made by the legislature. Would you consider money used to improve farms in the Territory, a capital improvement to fall under this section?

WHITE: Just what did you have in mind, Mr. Kilcher?

KILCHER: Farm loans -- farm improvement loans on such things or farm subsidies.

WHITE: That wasn't discussed in Committee.

KILCHER: And capital improvements, you think that might fall under capital improvements, the farming industry just like any other?

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, I think that is already taken care of under existing funds. Your present Agricultural Loan Act provides for the loans, but as far as that being classified as a capital improvement, that wasn't discussed in Committee at all.

KILCHER: But I mean, being conversant with the matter in general, do you think that it could be classified under capital improvement in general -- these farm loan funds, etc.?

NOLAN: I doubt it very much.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, capital improvements, Mr. Kilcher, refer to capital improvements of the state or the political subdivisions, like a highway situation or waterworks. The money that the state lends to farmers is not a state capital improvement at all; that's a loan program to help the farmers to improve their lands, but that's not the subject we are talking about; we are talking about capital improvements of the state, or political subdivision.

KILCHER: Thank you. Then in Section 1, a similar question, in the second line, the power "shall never be suspended or contracted." Could you consider that the power of taxation -- could you consider that taxes could be suspended, taxes applying to farms as a part of an integral industry?

NERLAND: I would suspect that if all farms in the Territory were so included, that perhaps they could be.

KILCHER: Yes, that's what I had in mind. Thank you.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, in line with that, in our property tax, which is now repealed, there was a clause in there exempting homesteads from taxation until one year after the owner gains clear title from the federal government. That was the case of taxes exempt for short periods.

PRESIDENT EGAN: We will now proceed to Section 1. Are there amendments to Section 1? Mr. Nerland.

NERLAND: The Committee has no amendments for Section 1.

PRESIDENT EGAN: Does any delegate have an amendment for Section 1? If not, are there amendments for Section 2? Mr. Nerland.

NERLAND: Mr. President, to avoid arising on each amendment, unless I do arise I hope you will assume the Committee has no amendments.

PRESIDENT EGAN: All right, Mr. Nerland.

NERLAND: The Committee has no amendment to Section 2.

PRESIDENT EGAN: Does any delegate have an amendment for Section 2? Are there amendments for Section 3? Does the Committee have an amendment to offer?

NERLAND: The Committee has an amendment for Section 3.

PRESIDENT EGAN: We'll consider committee amendments first in all cases. Mr. Nerland.

NERLAND: I move and ask unanimous consent that in Section 3, line 10, the word "assessment" be struck and the word "appraisal" be substituted.

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

NERLAND: I ask unanimous consent that the amendment be adopted.

PRESIDENT EGAN: Mr. Nerland asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 3? Mr. Johnson.

JOHNSON: Mr. President, I have one.

PRESIDENT EGAN: You may submit your amendment.

JOHNSON: I haven't written it out. May I have a minute?

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, you may offer your proposed amendment. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 3, line 9: strike the word 'the' at the end of the line and insert in lieu thereof the word 'uniform'."

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

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

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

KNIGHT: I'll second the motion.

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

HURLEY: Mr. President, I simply would like to state that I personally can see no reason why the "uniform" should not be put in there, but I certainly bow to the superior study of the Committee in deciding that it should not be put in there, so I shall vote against the amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I couldn't understand him, the last he said.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I said I was against the amendment.

JOHNSON: Well, I certainly am not intending to or I have no intention of attempting to quarrel with the Committee. I have made a cursory examination of three or four constitutions since the recess and find that in the Commonwealth of Puerto Rico, which constitution has been adopted by the Congress of the United States, the phraseology of this rule is stated thus: "The rules of taxation in Puerto Rico shall be uniform." In other words, everything regarding taxation shall be uniform. In the State of Illinois they also have a uniformity clause, and I lived in that state for a number of years, and I can recall that in one instance the legislature passed a sales tax which was limited to certain types of businesses and for that reason, the Supreme Court of Illinois held that the tax was invalid, and subsequently the legislature corrected the mistake and made it applicable to all types of businesses, and that tax was then declared valid; and I believe it is still on the books there. In Oregon, the phraseology used in the constitution is that, "The legislative assembly shall and the people through the initiative may provide by law, uniform rules of assessment and taxation." And they go on to say that, "All taxes shall be levied and collected under general laws operating uniformly throughout the state." And the purpose, of course, of the uniform provisions is simply to guarantee that any law respecting taxation shall be uniform in application to all classes of property, to all types of property, and to all classes of citizens. So while it is true that the Federal Constitution contains the Fourteenth Amendment that does have a due process clause, and while our constitution, up to now, also contains a due process clause, it seems to me that this simply follows along with those two items and is just a little additional safeguard to the uniformity of application of all tax laws that may be passed by the legislature. I don't think that we are borrowing any trouble; I don't concede that this is going to be a stumbling block at all; I think that we are just adding a safeguard that ought to be here.

PRESIDENT EGAN: Miss Awes.

AWES: I want to ask Mr. Johnson a question.

PRESIDENT EGAN: If there is no objection, Miss Awes.

AWES: I wonder if I misunderstood you. As I understand you want the word "uniform" to go before "appraisal"?

HURLEY: No.

JOHNSON: No, "standards". Strike the word "the" and insert the word "uniform" so that it is "uniform standards".

AWES: For appraisal?

JOHNSON: Well, appraisal of all property assessed.

AWES: As you use that word, does that intend to go only to the appraisal? Your argument sounded as if you intended it to go to everything, rates and everything else. What did you think was the effect of that?

JOHNSON: Well, I thought this was part of the general taxing clause and the clause that gave the legislature the power to assess and levy taxes. I may be mistaken as to the import of the entire section, but certainly if a legislature has the right to assess or appraise property for tax purposes, it ought to have the right to levy and collect the taxes, too. But the appraisal is the most important part of the matter as I see it - - either the appraisal or assessment, and the standards under which the machinery is set up.

AWES: Well, do you think that section goes beyond the appraisal?

JOHNSON: Well, it may not; I don't know, but I still felt that even with the appraisal that there should be no question as to the uniformity.

PRESIDENT EGAN: Miss Awes.

AWES: I asked Mr. Johnson a question, will that preclude me from speaking a little later on if I should want to?

PRESIDENT EGAN: The Chair will hold that you still have a right to ask a question Miss Awes. Mr. Ralph Rivers.

R. RIVERS: Mr. President, before they changed the word "assessment" to "appraisal", I think I would have opposed the amendment, because the Committee made it clear that if you couple the word "uniform" with the word "assessment" you're getting into trouble; but to say that "They shall establish uniform standards for appraisal of all property assessed", I don't think gets us into any particular trouble. It should be uniformly appraised.

PRESIDENT EGAN: (To the Clerk) When did they change the word to "appraisal"?

CHIEF CLERK: That was the Committee's amendment.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I ask Mr. Johnson a question?

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

WHITE: I initially had the same feeling just expressed by Mr. Ralph Rivers, except that during your explanation of it I changed my mind and I decided that you intended going way beyond that. Now the question I wish to ask was, in your mind, does the insertion of this word "uniform" in place of "the", for example, make impossible the graduated tax on fish traps?

JOHNSON: No, not if it's applied to all traps alike, it wouldn't. Actually, I think we are getting into a discussion here that we shouldn't. I don't know whether a tax on a fish trap is a tax or a license, actually. If you want to start splitting hairs about it --

WHITE: Well, pursuing the question a little further, in your mind, does this use of the word "uniform" here turn this into what we would normally consider a uniformity clause?

JOHNSON: Well, it does as to the matter of appraisals, yes, and the standards for which the legislature must set up.

PRESIDENT EGAN: Is there further debate on this amendment? Mr. Hinckel.

HINCKEL: I would like to know if the Committee's intention is to have a standard set up that is not uniform; that is, do they want some kind of an unusual standard set up that would permit assessment -- appraisal, as it reads now, that would be something other than uniform?

PRESIDENT EGAN: Would the Committee answer that question? Miss Awes.

AWES: I'm a member of that Committee, I won't say I'm representing the Committee, but I think that this section I'm sure there is no doubt -- this section goes only to appraisal; and I think the word "standards" for "appraisal" -- I think the word "standard" really implies uniformity. You don't have standards in this sense unless you're putting uniform guides out, so, therefore, I don't think the word does any harm; I don't think it particularly adds anything either.

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

METCALF: On the Missouri section on taxation, they use the word "uniform".

PRESIDENT EGAN: How is it used, Mr. Metcalf? Would you read the section, Mr. Metcalf?

METCALF: "Taxes may be levied and collected for public purposes only, and shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson 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 3? Mr. Fischer.

V. FISCHER: I have one, sir.

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

CHIEF CLERK: "Line 9, page 1, Section 3: strike 'establish', and substitute 'provide for the establishment of'."

PRESIDENT EGAN: Mr. Fischer, what is --

V. FISCHER: Strike the "the" also. Mr. President, I move adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer moves adoption of his proposed amendment. Is there a second?

MCCUTCHEON: I object.

R. RIVERS: Second.

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

V. FISCHER: Mr. President, there is a possible question here of whether "establish" covers delegation of the authority to establish; and these words would cover that. I checked that with the Chairman of the Committee, and he's agreeable to the change.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Fischer, what type of a delegation do you have in mind?

V. FISCHER: To a state agency, for instance, to a special commission, to set up standards. It is a delegation to the executive branch.

PRESIDENT EGAN: Mr. White.

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

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

WHITE: May we assume that under the auspices of Style and Drafting throughout the constitution wherever it says "establish", as this does, if the meaning is not clear, then everything will be changed to something like "provide for the establishment of"?

V. FISCHER: Mr. President, I don't think that that could be done very readily. I think that there is a big difference between the legislature establishing something and providing for the establishment. Otherwise, I wouldn't have suggested the change at this time.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the only thing I can see here is that where it states "the legislature shall establish", to me there appears to be no difficulty. The legislature shall establish the law; they shall pass the law which shall delegate the authority, and there is no prohibition here about it that I can see. They can delegate our natural resources department if they're going to have the lands, or delegate to any other organization or arm of the government, the authority to proceed with this. They are delegating their authority by the law, they are establishing that authority as is directed here. I can't see where there should be any quibbling about it.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer 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? Section 4? The Convention will come to order. Are there amendments to Section 4? Mr. Johnson.

JOHNSON: Mr. President, may I ask the Committee a question in reference to this section?

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

JOHNSON: Mr. Nerland, in this exemption clause, suppose that a nonprofit organization owns some income-producing property that it wasn't using for its own purposes but was renting out and getting income from, would that property be subject to taxation or would it be exempt?

NERLAND: It would be subject to taxation.

JOHNSON: Under this provision?

NERLAND: Yes.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, why was the word "cemetery" put in there?

PRESIDENT EGAN: Can the Committee answer that? Mr. Barr.

BARR: Mr. President, yes I can. I looked over quite a few of these constitutions, and I might say it was put in there through tradition more than anything else; however, I will point out, it says nonprofit cemeteries. Of course, there are some cemeteries out in the large cities that do make a profit. Most of the constitutions provide a list of exemptions from taxation, and some of them have quite a long list. We have picked out those that were commonly exempted; these are practically in every constitution. I suppose that is through public demand or opinion that they are included.

HELLENTHAL: We've gotten along in Alaska for 50 years, cemetery property has never been exempt, and I know of no crying demand for exemption of cemetery property, do you, Mr. Barr?

BARR: (No comment)

NERLAND: I'd say it's a "dead" issue. (Laughter)

PRESIDENT EGAN: There is nothing before us. Mr. Hellenthal, do you offer an amendment?

HELLENTHAL: I'm trying to make up my mind. Now, the veteran's exemption was omitted. Now we had that for a long time. What was the reason for omitting the exemption for the veterans?

BARR: I don't believe there was any special reason for omitting that. If I'm correct, we decided to omit most of the exemptions, and there was lots of others that were --

HELLENTHAL: No. That was the only one that has been singled out.

PRESIDENT EGAN: The Chair holds that this is not an arguing portion of the amending process. Are there other amendments to Section 4?

HELLENTHAL: I move to strike the word "cemetery".

UNIDENTIFIED DELEGATE: Objection.

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Hellenthal moves that the word "cemetery"

be stricken from line 1 of page 2, and Mr. Knight seconds the motion. Mr. Marston.

MARSTON: Mr. President, throughout the United States there has been the greatest promotion in cemeteries in recent years that we have ever had. There were no failures -- ever -- in the cemeteries, they've been a success. (laughter) I think that they should be stricken. I'm going along with the amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, to make it perfectly clear, the only reason that I made the amendment is that Alaska law -- and I have it here -- for many years has exempted property used exclusively for religious -- we have covered that -- educational, and charitable purposes, and then the veterans, and that's all. We have omitted the veterans and thrown in the cemeteries. I think the cemeteries should go.

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

HARRIS: I don't know, but I kind of like to think that when I die, I'm free from taxation. (Laughter)

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I ask Mr. Hellenthal a question?

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

WHITE: Mr. Hellenthal, is it your further intention to get rid of cemeteries and put in veterans? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: No. I'm a veteran, and I've never known why the veterans' organizations, any more than any other organizations, like the Elks, Moose, or any other lodge, should be exempt. I can't understand that exemption, but I can't understand this cemetery exemption either.

PRESIDENT EGAN: Mr. White.

WHITE: I think I can speak for the Committee. I started out in the same way in Committee, wondering why cemeteries should be in there, and it was pointed out to me that in constitution after constitution these are the four standard exemptions, and if you go beyond them, you can list them for page after page, so the Committee, I think, decided to stick with what appears to be standard in most of the constitutions.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I gave some thought to that, and as the discussion went on that -- if I recall right -- there are a number of cemeteries around, outside of the incorporated city limits that are actually established by groups of people for the benefit of the community, and under the striking of this, and I refer to the Birch Hill cemetery in Fairbanks and the Palmer Cemetery outside of Palmer, and a number of others like them. If you strike this, I presume that you will make them subject to taxation, if and when the local government unit or the state ever imposed a tax, unless they were covered under the word "charitable", and I'm pretty sure most of them are not charitable, they are just self-sustaining, nonprofit groups.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I think in this we are scoffing because the problem doesn't exist at the moment in Alaska. We are scoffing at a problem that may very well become critical in the Territory of Alaska. That is, if you go into any of the larger cities of the state, you can well comprehend why many of these cemeteries could not be run at a profit, and most of them are nonprofit because it is the only method of avoiding taxes, and yet providing, in a sense, a permanent resting place for these people; and to scoff at it and say that it has to be under religious or charitable auspices is unjust, because in many instances it is a definite public service. The fact is that in Alaska we haven't been confronted with the problem, but if we lightly pass it off as a joke, we may regret it in the future, because in substance we may well waive one of the exemptions that apparently has been critical and important in every other state of the union. The mere fact that our people have, in substance, in most instances in the past gone outside to die is possibly because there aren't any cemeteries, is no occasion for suggesting now that we do away with the exemption because it isn't an immediate problem. I think that is near-sightedness on the part of many of these people who so violently oppose it. If it is so minute that it isn't a problem why not leave it in there and then if it does become a problem at least we have covered it in this constitution. Certainly, there was some justification for being included in so many constitutions so uniformly. You can treat it pettily and you can scoff at it, but it may become a matter of moment.

PRESIDENT EGAN: Is there anyone who hasn't spoken yet? Mr. Barr.

BARR: Mr. President, I haven't spoken since the amendment was moved. After hearing Mr. Hellenthal's amendment, I'm certain now that the old saying is right: "There's nothing certain except death and taxes," and probably taxes after death. Mr. McLaughlin certainly stated the case exactly. Our cemeteries here are a little different than those outside, because we can go out here and stake out a piece of ground in the tundra

anywhere and dig a hole, and it's a cemetery; but down in the states most churches have a cemetery in connection with them; they own the ground, and if it happened to be inside of a city, that ground would certainly have a high tax rate, and they do not make any money off of that. There may be a charge at first, but they also allow the cemetery to be used by indigent persons who can't pay anything. Mr. Marston mentioned these promotional deals where they make a lot of money, and certainly I agree with him, they should be taxed. But what we provide for that in here -- this is only for nonprofit cemeteries, meaning usually religious cemeteries.

PRESIDENT EGAN: Mr. Hellenthal.

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

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

HELLENTHAL: Mr. McLaughlin, this is no light matter with me at all, although it lends itself to some form of humor, I suppose. Can you think of one example of a cemetery, such as you spoke of in your remarks, which is not covered by the nonprofit religious or the nonprofit charitable exemptions?

MCLAUGHLIN: I can speak specifically for the city of New York. In the city of New York it's becoming something of a burden because of the fact that there are so many people who do not believe that they should be cremated. Many people are not of any specified religion and may not qualify to be interred into special religious cemeteries, and when you have a great mass of population, you have to establish a cemetery. The cities -- I speak specifically of Anchorage, the one of which I know -- cannot go on for years providing a private cemetery. In substance, some day they will insist that some private organization -- nonprofit and not necessarily religious -- take over and exercise the duties that the city is now performing. I might point out that in the city of Anchorage in their cemetery that they do have areas set aside for Moslems; I know specifically they have a section set aside for the Masons. Would that qualify as a religious organization? It would qualify as a nonprofit, and those are things that are going to rise and face us. We are not faced with the problem today but with the growth of population, it's going to come. We are in substance, all of us, nothing more or less than rural communities, and the rural communities can beat it in their small religious cemeteries but the time will come when we will have to set aside large plats and those places can't support themselves if they are not exempt, even though they be nonprofit, if they are not exempt from taxes, they cannot maintain themselves with the prices they charge. That's an experience that's true in the United States --

HELLENTHAL: Point of order, Mr. President. I asked a question

and wanted to know what kind of a cemetery do you have in mind that isn't covered by the nonprofit charitable language. Name me one.

PRESIDENT EGAN: That was the other question, wasn't it?

HELLENTHAL: Well, in this I'd like to be heard on it. You can't name it.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I don't believe because he can't answer the question, and he can't give a definite example, that that is proof that it shouldn't be written in here. It may make all the difference in the world between a ragged, dismal-looking place on the outskirts of a city and a place with perpetual care that is an edification to us, and as we go by someone cares for that place. I don't see why we can't afford to leave it in here. If there is any doubt, then it should be left in here.

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

METCALF: Mr. President, may I ask Mr. Hellenenthal a question?

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

METCALF: Mr. Hellenenthal, if you subject any kind of a cemetery to taxation, isn't it possible that 50 years from now that the taxes may become delinquent on that cemetery and the sheriff comes around and sells it at a tax sale. What are we going to do with the remains there? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: If I can close at the same time as I answer your question -- I know of no cemetery in Alaska, or anywhere else, nonprofit, that wouldn't be justified from exemption from taxation under the charitable clause that we have. And I think that we are opening the door here to a possible abuse. Now take Juneau; I'm quite familiar with the Juneau cemetery. They have an Elks' plot, they are free from taxation because the Elks is a charitable organization; they have an Odd Fellows' plot, I believe, and the same principle applies there; they have the Serbian lodge there, a charitable institution, and it's also tax exempt; they have the Moose plot, it's tax exempt; the Legion plot -- all charitable organizations. The Masonic plot -- everywhere are charitable organizations. And I know of no case anywhere, even New York, where the cemetery plot wouldn't be exempt because of the charitable nature of its sponsoring organization; however, if you open the door to a nonprofit cemetery association, I know of a few of those that are organized primarily so that the leader of it can draw a very handsome

salary in this nonprofit organization, and he's entitled to it under the law, and he more or less maintains himself perpetually through the tax exemption because it is the tax exemption that pays his salary. Now there have been abuses of that and we all know that these exemptions should be curtailed to the minimum; and, unless there is a very, very good reason for creating a new one, I see no reason why we should do it here.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered 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 4? Mr. Smith.

SMITH: Mr. President, I don't have an amendment; I have a question, and that's in regard to the last sentence of this section where you say "other exemptions of like or different kinds". Isn't that, in effect, saying that exemptions of any kind may be granted?

NERLAND: Yes, that was the purpose of it.

PRESIDENT EGAN: Are there amendments to the new Section 5? It was formerly 6. Mr. White.

WHITE: Mr. President, the Committee would like to state for the record to amplify a little bit in an answer we gave to Mr. Johnson's question earlier, and that is as to the exemptions extended to property used by the nonprofit, religious, charitable, cemetery, and educational purposes, and that is that this is carefully drawn to provide that even any part of property owned by such organization or used for such purposes which is used for profit could be taxed. For example, the case of an office building owned by an educational institution, part of which is being occupied by the institution itself for its own purposes, and part of which is rented out at a profit. It's the intention here that the part which is rented at a profit could be taxed.

PRESIDENT EGAN: Are there amendments to Section 5? Section 6? Mr. Nerland.

NERLAND: Mr. President, the committee has an amendment on Section 5: after line 19, after "United States" insert a comma and add "the state and its political subdivisions".

PRESIDENT EGAN: You offer that as an amendment, Mr. Nerland?

NERLAND: I offer this as an amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Nerland asks unanimous consent for the adoption of the proposed amendment. The Chief Clerk will please

read the proposed amendment once more.

CHIEF CLERK: "Section 5, line 19: after the word 'States' insert a comma and add 'the state and its political subdivisions'."

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Nerland for the adoption of the amendment? If there is no objection, the proposed amendment is ordered adopted. Are there other amendments to the new Section 5? Mr. Barr.

BARR: Mr. President, I just happened to notice. The heading of that paragraph should be changed. It is now entitled "Taxation of Interests in U. S. Property". I would move that we strike the "U. S." and substitute "government".

PRESIDENT EGAN: Mr. Barr moves that we strike the "United States" and insert in lieu thereof the word "government". Do you ask unanimous consent?

BARR: I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the amendment be adopted.

V. RIVERS: I wonder if Mr. Barr would consent to make the word "public property". I think that would be more inclusive.

PRESIDENT EGAN: Mr. Barr, do you have any objection to the request as made by Victor Rivers?

BARR: I don't think I do.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for about 60 seconds.

RECESS

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

HURLEY: Point of order, Mr. President.

PRESIDENT EGAN: Mr. Hurley, what is your point of order?

HURLEY: I didn't think the paragraph headings were subject to amendment, and the Style and Drafting Committee has been freely changing them around, and I hope that situation will continue.

PRESIDENT EGAN: The Chair feels your point of order is well taken. Mr. Barr.

BARR: I believe they are subject to amendment, but I ask unanimous consent to withdraw my amendment and to refer it to

the Style and Drafting Committee.

PRESIDENT EGAN: If there is no objection, it is so ordered, and the proposed amendment has been withdrawn. Are there amendments to the new Section 6? Mr. Smith.

SMITH: Mr. President, once again I don't have an amendment, and I ask the question merely to get the Committee thinking into the record. Was it the intent of the Committee here to prohibit the sale of public property for other than public purposes? I see that you have here: "No tax shall be levied or appropriation of public money made or public property transferred, except for a public purpose." And, of course, in the resources article we make it possible to transfer property from the state public domain to private individuals. I simply wanted to either get this before Style and Drafting or get the Committee thinking on the record.

NERLAND: Mr. Smith, the Committee took into consideration Section 9 of resources, and it was the feeling of the Committee that the transfer of public property, when money was being received for it, would constitute a public purpose. It was not the intent of this Committee to interfere with the operation of your Section 9 in resources.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'd like to ask a question. Mr. Nerland, the same answer would apply to surplus property which the state is putting up for sale, would it not?

NERLAND: I would say it would, Mr. Rivers.

PRESIDENT EGAN: Are there amendments to Section 6? Are there amendments to the new Section 7? Mr. Nerland.

NERLAND: Mr. President, the Committee would request that further consideration of Section 7 be temporarily postponed until we have our proposed changes ready for it.

PRESIDENT EGAN: If there is no objection, the Convention will adhere to the Committee's request and proceed to other sections. Are there amendments to the new Section 8? Mr. Fischer.

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

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment to Section 8.

CHIEF CLERK: You mean Section 8 instead of Section 9?

PRESIDENT EGAN: That's right. It's Section 8 now.

CHIEF CLERK: "Page 3, line 7 and 8, strike 'or any political subdivision thereof'. On line 11, strike 'or of the respective political subdivisions'."

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

V. FISCHER: I move the adoption of this amendment.

ROSSWOG: I'll second the motion.

PRESIDENT EGAN: Mr. Fischer moves the adoption of the proposed amendment, and Mr. Rosswog seconds the motion. The Chief Clerk will please read the proposed amendment again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, the provision here regarding the debts of political subdivisions is in direct contravention of the concepts that have been developed by the Local Government Committee over the last number of weeks. The way the Local Government Committee has approached the whole field of political subdivisions is that in our article in the constitution we create the general framework of the local government system of the state and set up its general form of operation. Insofar as fiscal affairs are concerned, it has been our consideration all along that the state, through the legislature, has the supreme power over local government units in the matters of taxation, bonding, and similar fiscal matters. Now we have gone further and visualized that relationship, not just as one where the state imposes a duty upon its local subdivisions, but as a cooperative venture where the state takes an interest instead of just saying, "Thou shall not do this", and putting on various limits where the state actually works towards the development of better local government finances. I could go on at length on that subject, but what I would like to point out is that we are dealing here in the finance article covering the fiscal establishment of this state -- emphasis on the state -- things that we don't put in here are left to the legislature. In other words, what we want to put in here are the things we want to insure they get done. I mean, we are the only group that can tell the legislature of the State of Alaska what it can and cannot do. But in relation to the local government units that will be created under this constitution, the legislature will still be in that same position in which we find ourselves. The legislature can tell the local government units that you must put up any proposed bond issues for referendum; they can set up a limit on the total amount of bonding authority of local government, and establish similar restrictions. I don't feel that it is necessary or proper to put in these provisions here. I would further like to point out that we presently have laws on the books that provide that before a

municipality can bond itself, before a school district can bond itself, before public utility districts could bond themselves, it has to submit the proposition to the voters. Now I would further like to point out that in drafting those laws the legislature has had a chance to provide additional provisions that are not included here. This is not directed towards the local governments; this is directed towards the state government. The political subdivisions throughout just seems to be thrown in here. We have a phrase, for instance, in line 8, "unless the debt shall be authorized by law for capital improvements". Does the legislature pass a law authorizing the city of Fairbanks to bond itself to build a bridge or something? That is the kind of question. In line 15, "meeting natural catastrophes", a local government unit couldn't meet natural catastrophes; the exemption applies only to the state. It would seem to be much better to leave this matter up to the state and let the legislature make the necessary restrictions which, by the way, are much more stringent now. Here it is provided in line 10, "approved by a majority of the qualified voters". At the present time in most general obligation bond issues a 65 per cent majority is required in our municipalities. The legislature further restricted it to authorize only property owners to vote on these propositions. In other words, instead of putting on a restriction, we are loosening things up, we are removing the flexibility that can be provided by giving this power to the legislature and let the legislature meet the needs as they may occur instead of freezing it in this inflexible document.

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

MCNEES: Mr. President, I read this article quite differently than Mr. Fischer has outlined it, and if I may ask him a question. I'd like to -- supposing we leave out these six words "or in behalf of the state" and read it this way, "that no debt shall be contracted by any political subdivision, unless the debt shall be authorized by law for capital improvements specified therein and be approved by a majority of the qualified voters of the respective political subdivisions." I think that's quite logical.

V. FISCHER: My point, Mr. McNees, is that it may be logical, but this is what the legislature has done in the past; it has done it, I might say on a different basis with much more study, and the specifications, for instance, that we have for bonding are much higher now. You're opening up to the local government units a much easier floating of bonds than we have at the present time. Mr. President, I might still answer Mr. McNees now. I'm not against requiring a referendum before a local government unit can issue bonds; I'm only saying that that is a determination that the legislature has to make.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, the Committee was fully aware of the present regulations regarding this, but they were also very determined that this should apply also to the political subdivisions. Granted that there are certain restrictions in effect now by law, but also it is conceivable that future legislatures might remove those restrictions entirely; and the Committee felt that having the state or the political subdivision or the governing body thereof, authorize the debt by law, and then have it referred to the voters on a referendum, would be a necessary safeguard against excessive bonding.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I think this line where they go into the detail of "approved by a majority of the qualified voters" is ill-advised and I can't hardly believe that the property owners of the state will go for it. It would be decidedly to their detriment, particularly in the area that I'm familiar with, we have a very large percentage of people --

AWES: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Miss Awes.

AWES: I think he's going on a different matter. I don't think he's talking about the amendment that is before us at the present time.

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

CHIEF CLERK: "Section 8, page 3, line 7 and 8, strike the words 'or any political subdivision thereof'. On line 11, strike the words 'or of the respective political subdivisions'."

HINCKEL: Well, I'd like Miss Awes to explain to me what she thinks I am talking about.

AWES: I'm sorry.

HINCKEL: By following the logic of the man that spoke ahead of me, why, he is requesting that we strike certain provisions here so that among some of the advantages of striking those provisions would be the thing that I'm talking about, and that is the state would then be able to set up something other than this very provision in here which says that 'the majority of the qualified voters in any political subdivision, for instance, the city of Kodiak could authorize the voting of bonds, or, the city going into debt, and leaving about 15 per cent of us to pay the bill. That's what I'm objecting to.

PRESIDENT EGAN: Miss Awes.

AWES: I'm a member of the Finance Committee, but I would just like to state that I am going to support Mr. Fischer's amendment. When this question came up in the Committee, I did not favor putting those words in. I'll admit I was a minority of one, but I don't approve of putting them in for the reasons Mr. Fischer gave. I think that the state has the full authority to regulate the local government's right to go into debt, and the method in which it can do it. There might be one of a dozen different ways that the state legislature would want to put restrictions on the local government; this just specifies one particular limitation that the state constitution would put on them. The state legislature might want to put this one, only in a more restrictive form even, or other; and I just don't think it serves any particular purpose, and by putting this one restriction in, it might be implying that we didn't want the legislature to put other restrictions on. So I favor Mr. Fischer's amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to say that I believe this whole Section 8 is really a legislative matter, and particularly where it affects the political subdivisions, and so I would like to support this amendment. I know in our consideration of local government we felt that we should give the local government a certain amount of self-government, of course, subject to limitations by law and under the state government. The idea of setting up in the constitution this limit would certainly stop reasonable borrowing by the cities. I know that even at the present time, with the limitations that are on borrowing by the smaller towns or medium sized towns, why, it's often hard to borrow a small amount that they need. I hate to think what would happen to our national economy, or to our federal government, if a limitation such as this was in effect there. I think there should be reasonable limits and it should be set by the legislature. The letter that was read, of course, from a house that is interested in selling bonds, is naturally from their angle -- the less debts you would have, or if you were unable to make debts except through bonding, why, it would be to their advantage, but I don't think that enters into the question here. I think it would be very hard on the local government units and I think these limitations should be set up by the legislature.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to make a statement, but first may I address Mr. Ralph Rivers to get a legal opinion?

PRESIDENT EGAN: If there is no objection, Mr. Barr, you may get your free legal opinion. (Laughter)

BARR: Voting on improvements within a city where only the property owners are allowed to vote, what is that, a city ordinance or a state law?

R. RIVERS: That's prescribed in our present laws of Alaska, purely a legislative matter.

BARR: The point I'm trying to bring up is this, we are dealing with two things here -- the state and -- we'll take the cities, to make it simpler. Now we can't say that only property owners should vote in a state election, because we have no tax rolls on property owners. And in here, when there is an election for public improvement within a city it says it should "be approved by a majority of the qualified voters of the state or of the political subdivision voting". In other words, it seems to me that in that case if a city requires you to be a property owner to vote, and the state law also says that that is permissible, then you're not a qualified voter of that city in that case unless you own property.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I have once already spoken, but may I call to Mr. Barr's attention that the qualified voter is one thing, but that doesn't mean he can vote on a bond issue; it's a different qualification. It is set up differently in the Territorial laws.

PRESIDENT EGAN: Mr. Barr.

BARR: It says here "by a majority of the qualified voters of the state", which is one thing. We all know what that is, "or of the respective political subdivision". If they specify that in addition, it must mean that they must be qualified under the ordinances provided for by that political subdivision and also in respect to what the state allows. If the political subdivision requires you to be a property owner, then you're a qualified voter -- if you're a property owner.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, we recently conducted a bond issue in the little town of Nenana, and in going through it we found out -- in answer to your question, Mr. Barr -- that there is a Territorial statute that limits our bonding capacity of a small community, and also that the only people that are eligible to vote on a bonding issue are property owners.

BARR: That proves my point.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHALL: Mr. President, -- Mr. Barr, what is the intention

of the Committee to prescribe minimum qualifications here?

BARR: You mean qualifications for voting?

HELLENTHAL: For voting on a matter of involving the authorization of debt. Maybe if I put it this way, did the Committee want to leave it open so that Kodiak, for example, could superimpose additional qualifications to those set out in the constitution?

BARR: I believe so, that's why the two are divided. It says, "the qualified voters of the state or of the respective political subdivision".

V. RIVERS: Mr. President, I have a question which I think bears very closely on this. I wonder if the Committee gave attention and thought to the matter of revenue bonding for the purposes of capital improvements to existing structures where they earn their way out. Now in cases like that at the present time, I believe, on revenue bonding, I'm not sure, but it seems to me that they do not require a vote, is that correct? But on a general obligation bonds a vote is required of the people whose property will be generally obligated to retire that debt. I wonder how this would work as to revenue bonding? Could somebody answer that for me?

AWES: Mr. President, I think Section 11 lists certain exemptions that Section 8 doesn't apply to, and I think that is specifically taken care of in that section, that is, in the new Section 10.

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

MCNEALY: Mr. President, I'd like to support Mr. Fischer's amendment here, and along the same lines that Mr. Hinckel spoke about, our population within the Territory is not too stable, and I think if there is any question here that it be left open, where, by a simple majority of the voters within a city, that they could obligate and put that city in debt for capital improvements; then the boom dies out there, and a majority of the people move to another town and leave the property owners stuck with the debt. I believe the present Territorial law is much better in this regard as to cities and political subdivisions than it would be if it had to be drawn under this particular article of the proposed act.

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

RILEY: I believe that the confusion that has been expressed as to the meaning of "qualified voters" as applied to two different levels of government would be dispelled altogether with the adoption of Mr. Fischer's amendment, which is just one additional reason, as I see it, for supporting that amendment.

WHITE: Mr. President. In answer to some of the arguments that have been presented, first of all, Mr. Fischer said that on line 15 that it was silly to think of a city in terms of borrowing money to defend the state in war, or in meeting natural catastrophes. I call his attention to line 12 where the foregoing words are provided that "the state may by law..." So from line 12 on down we are only speaking of the state. Now it's very true that this authority is possessed by the legislature, but I think the majority of the Committee felt that subjecting such bond issues to referendum on the local level constituted the basic framework that we would like to see in the constitution on this matter. Now the Local Government Committee, in Section 5, says, "The governing body of the borough shall be the assembly." If you want to get even more basic than that, you can say, "The borough shall have a governing body." It is a question of how far you want to go on leaving things to the legislature, and I think the majority of the Committee felt that this basic restriction of submitting bonding issues to the people, as we do now, should be retained with the full understanding that the legislature can always impose additional restrictions. Mr. Fischer said that he is not opposed to submitting bond issues to referendum and we have here provided them. When you get into additional limitations, the Committee did think this should be left because then you are into the matter of dollar limitations or percentage limitations which can logically vary from year to year or generation to generation. So we pointedly left that kind of restriction out, but of course the legislature can always impose additional restrictions, and I think the fact that the legislature has provided with something in the past, that there is a statute now on the books, and therefore we needn't include it in the constitution, has been settled to our satisfaction several times here before. Merely because the law is now on the books is not sufficient reason for not including a similar provision in the constitution. Mr. Rosswog says that this provision would make it very hard on the cities; Mr. Fischer says it would make it too easy for the cities. I think we are kind of following it along the average there. Mr. Fischer pointed out to us in committee meeting that the word "law" on line 8, and the words "qualified voters" on line 10 might lead to difficulties. I think the Committee is inclined to think not, but should this amendment be voted down, it certainly isn't beyond us to change or improve those words if they do lead to difficulties. I think I'm expressing the intent of the Committee when I say that it was not our intent to settle who should vote on bond issues in local government units. Now if that language is not clear here, it's certainly subject to amendment, so that Mr. McNealy's point that this would leave the settling of local bond issues by referendum to a simple majority is not necessarily so. We don't feel that the language does so, as it stands, and if it does it certainly is subject to amendment.

KILCHER: Mr. President, I withdraw my question.

LEE: Mr. President, I'm not too interested in the majority

vote or the two-thirds vote; I'm primarily interested in a basic principle involved here. We are writing a constitution here that is supposed to give us more freedom of self-government. Now in the past, under Territorial status, we have had more self-government than this will provide. I think that we should go the other way and try to give all the home rule we can to the cities and to the other local governments.

DAVIS: Mr. President, for what it's worth, I hope that Mr. Fischer's amendment will be defeated. It is true that if we strike these words here that the legislature will still have the right to say how far cities can go or what they have to do to bond, but it seems to me that we are writing basic things here as to what can be done and what can't be done by the legislature as well as by the units of local government, and it seems to me absolutely basic that the units of local government, as well as the state, should be governed by some basic rules before they can bond. My only objection to the language, as written here, is that it doesn't go far enough. I would make it still more restrictive before either the state or the political subdivisions could bond.

BUCKALEW: Mr. President. I'll be very brief. I think the amendment has merit, and I think it's unwise to forever tie the growth of all the various political subdivisions that will be created by this amendment.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. Fischer is about ready to close the argument if no one else wishes to be heard. Mr. Fischer.

V. FISCHER: In closing, I would only like to say that we have tried, in drawing the local government article, to provide for a system that will be flexible, that will be able to meet growing needs of Alaska. I think that that can be best achieved through a cooperative attitude between this state and the local government units, and the best way of achieving that will be by leaving this matter to the legislature which can meet the needs as they arise and impose the kind of restrictions that can best meet the needs of the local government units at our various stages of growth.

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

V. RIVERS: I'll ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 17 - Awes, Buckalew, Cross, Emberg, V. Fischer, Harris, Hinckel, Hurley, Kilcher, Lee, McNealy, Nordale, Riley, R. Rivers, Rosswog, Smith, Mr. President.

Nays: 33 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Sweeney, Walsh, White, Wien.

Absent: 5 - Robertson, Stewart, Sundborg, Taylor, VanderLeest.)

CHIEF CLERK: 17 yeas, 33 nays and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. If there is no objection, the Convention will be at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 8? Mr. Hurley, do you have an amendment?

HURLEY: Mr. President, I would like, first, to ask a question of the Chairman, if I may, so I may not have to offer an amendment.

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

HURLEY: Mr. Nerland, on line 8, the last word is "law". It says, "unless the debt shall be authorized by law for capital improvements..." Is it the intention of the Committee that the word "law" also would mean local ordinance or resolution of the particular political subdivision that was involved in the capital improvement?

NERLAND: That's correct, Mr. Hurley, and we would assume that if that wording is not satisfactory to Style and Drafting, that they will change it accordingly, but it's our intention that it be by law or ordinance or whatever other authority that the state or political subdivision might enact.

HURLEY: And it's not the purpose that the state should by law specify a capital improvement in a particular locality?

NERLAND: No, that wasn't our intention.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have an amendment on the Chief Clerk's desk.

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

CHIEF CLERK: "Section 8, page 3, line 10, after the word 'voters' add the following: 'whose names appear on the current tax rolls'."

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

JOHNSON: I move the adoption of the amendment.

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

MCNEALY: I'll second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. The amendment is open for discussion. Mr. Victor Rivers.

V. RIVERS: I would like to ask a question. What current tax rolls do we have of the state with the taxpayers' names? We do not have any property tax roll. I'd like to ask how this would put us in connection with a vote on a state bond issue?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: It's conceivable, Mr. President, that one of the first acts of the first legislature would be to pass a property tax, since undoubtedly we are going to need more money, and the basic form of taxation, as we have heard for many years, is a property tax; and I can conceive of the first legislature producing that tax law immediately, and we thus would have a tax roll all over the state. I don't think that's an argument against the amendment, because it is very conceivable that immediately we would have a property tax law which would put us all on the current tax roll of the state.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I believe that the amendment by Mr. Johnson is too restrictive. It sets out a tax roll. I prefer to see something, such as "subject to other qualifications by law", that would include the tax roll or whatever we have coming up against it in the future. I believe your qualifications is too limited, you've just got it down to one item. At this time I'd like to ask the Chairman of the group: when you say "a majority", do you mean "at least a majority of the voters", or does that mean a maximum figure to the Committee?

NERLAND: Mr. Gray, I think perhaps that might be construed

in several ways, but in answer to your whole statement, and the question to Mr. Johnson and myself, I believe there is an amendment being prepared right now that would be more satisfactory, both as far as the "majority" and also as far as the "qualified voters" are concerned. In the interest of saving time, I think that even perhaps Mr. Johnson would be willing to withdraw his motion after he hears the context of that amendment.

PRESIDENT EGAN: Could you read that, Mr. Nerland?

NERLAND: Mr. Davis is preparing that, I think. Do you have it ready, Mr. Davis?

PRESIDENT EGAN: Mr. Davis, for information purposes, would you care to read the proposed amendment in light of the suggestion as made by the Chairman of the Committee?

DAVIS: I had a proposed amendment, and I wasn't listening to Mr. Nerland. I'm sorry.

PRESIDENT EGAN: We'd like to have the proposed amendment read, Mr. Davis.

DAVIS: On line 10, insert "not less than" before the word "majority". Line 12, after the word "question" delete the comma and insert a period. Add another sentence as follows: "additional requirements may be provided by law." Start a new sentence with the word "provided" and continue as in the proposal.

PRESIDENT EGAN: We have the proposed amendment as offered by Mr. Johnson before us at this time. The question is -- Mrs. Nordale.

NORDALE: Mr. President, I'd like to ask a question.

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

NORDALE: In case of debt contracted by the state, aren't people who pay their income tax entitled to vote just as much as people who pay real estate property taxes -- since their money goes -- I don't know, I'm just asking?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I think I can answer that. When a city defaults on its indebtedness or any local government --

NORDALE: I'm not talking about local government, I just mean state debts.

HELLENTHAL: Well, on the state level, I can't answer.

R. RIVERS: Mr. President.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: The full faith and credit of the state is explained on every bond issue, and that is a debt service that applies to all taxpayers -- income taxpayers, fish trap payers, and all licensed payers, and I don't think that we want to compel a registration of all property within the state, providing the legislature does not see fit to have a state property tax act just in order to have a tax roll so people can be qualified to vote as property owners in statewide elections. I think everybody should vote in a statewide election.

PRESIDENT EGAN: Mr. Johnson, the Chair might ask, if there is no objection, what is it actually your intention, to have this provision apply only to local governments, or subdivisions of the state government, or to the whole state?

JOHNSON: Well, I had intended it for general coverage, but largely based on the fact that right now in school districts and cities, bond elections are submitted, or referendums are submitted, only to those people whose names appear on the current tax roll, and that is done because they are the property owners who pay the taxes. Now if this amendment that I have in isn't the way to solve the problem, then I will withdraw it, but I don't think that Mr. Davis's amendment answers my objection, which is the same as Mr. Hinckel's that I think, unless we spell out some sort of provisions under which bond elections are to be held and do it in the constitution, there is too much chance for injustices and inequalities to creep in.

PRESIDENT EGAN: Do you ask that your amendment be withdrawn, or would you just --

JOHNSON: I ask that it be withdrawn.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered, and the amendment has been withdrawn. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'm concerned about this statement here, "unless the debt be authorized by law". Mr. Nerland said that he thought that meant that a political subdivision could go ahead and bond itself just on the strength of its own ordinance, the idea being that its ordinance would be the law. But generally a political subdivision has only such powers as are delegated to it by the legislature. And "authorized by law" to me means that the legislature has authorized a particular city to indebt itself for a specified purpose. It seems to me that there are so many factors here that need studying and that inasmuch as Section 7 has been withheld for further study to be

submitted later, I'd like to see Section 8 be held back by the Committee, and perhaps with a little consultation, Section 8 could be clarified too, along with Section 7.

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

KILCHER: Mr. President, I got an amendment for the old Section 9 on the table.

PRESIDENT EGAN: Amendment to Section 8? These sections have already become Sections 8, 9, 10, etc. The Chief Clerk will please read the proposed amendment to Section 8.

CHIEF CLERK: "Section 8, line 10, after the word 'majority', insert 'set by law' and strike 'voters' and substitute 'votes cast'."

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

KILCHER: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that his proposed amendment be adopted by the Convention. Is there a second?

KNIGHT: Second.

PRESIDENT EGAN: Mr. Knight seconds the motion. The Chief Clerk will read the proposed amendment again.

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: At this time the amendment is open for discussion. Mr. Gray.

GRAY: Mr. President, I'd like this to be under consideration of the Finance Committee and several ideas, and we're all trying to work around the same idea. I would like to follow Mr. Ralph Rivers' suggestion and defer action until --

PRESIDENT EGAN: Do you ask that?

GRAY: Well, we already have an amendment on the floor, and if the Committee wishes to withdraw, I wish they would have the chance for that consideration and, if Mr. Kilcher could withdraw his amendment, I think under that consideration he could take his amendment up with the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, if the Committee should decide to withdraw this Section 8 for further consideration, I would like to have this amendment deferred to the Committee.

PRESIDENT EGAN: Is there objection to the request? Mr. Victor Rivers.

V. RIVERS: Mr. President, I object only for the moment to give notice of reconsideration on Mr. Fischer's amendment to Section 9, which is now Section 8.

PRESIDENT EGAN: Mr. Rivers, you voted --

V. RIVERS: I voted on the prevailing side.

PRESIDENT EGAN: Mr. Victor Rivers serves notice of reconsideration of his vote on the amendment of Mr. Fischer.

V. RIVERS: I now withdraw my objection to its being withdrawn for further committee study.

PRESIDENT EGAN: Is there objection then to having Section 8 withdrawn for further committee consideration? Hearing no objection then, the section is deferred until a later time. Are there amendments to Section 9? Mr. Nerland.

NERLAND: Mr. President, the Committee has an amendment which reads as follows: After the words "The State" add "and its political subdivisions thereof".

R. RIVERS: Without the "thereof", if you use the word "and", Mr. Nerland.

NERLAND: That's correct. "...and its political subdivisions."

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

NERLAND: I move and request unanimous consent that that be adopted.

PRESIDENT EGAN: Mr. Nerland asks unanimous consent that his proposed amendment be adopted. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Section 9: after the word 'State' on line 18, insert 'and its political subdivisions'."

PRESIDENT EGAN: Is there objection to the unanimous consent request? If not, the proposed amendment is ordered adopted. Are there other amendments to Section 9? Mrs. Sweeney.

SWEENEY: Mr. President, I don't have an amendment, but I'm wondering -- it states here that the debts must be paid prior to the end of the next fiscal year. What happens to loans which the state makes and one which we now have which has four years to run. I mean, do we have any time up to four years to pay it, if it's a debt that we can't pay in one year?

PRESIDENT EGAN: Mrs. Sweeney, perhaps the Chairman of the Finance Committee

NERLAND: I'm not sure that I understand just what debt you're referring to?

SWEENEY: At the present time we have a three-million dollar loan on the ESC and we have four years on that, and here we are, in Section 9, asking that it be paid up in one year.

NERLAND: Well, would you think that Section 15 might cover that -- Section 14, the last section.

SWEENEY: Well, Mr. Riley just whispered over here that this is money borrowed to meet appropriations, so I guess my example wouldn't fit in here, probably.

PRESIDENT EGAN: Are there other questions, or are there other amendments to be offered to Section 9? Mr. McLaughlin.

MCLAUGHLIN: Mr. Nerland, in Section 9, the first sentence, "The State and its political subdivisions may by law..." Do you have any objection to striking "by law" merely as being somewhat confusing?

NERLAND: No, I don't.

MCLAUGHLIN: I ask unanimous consent that that expression "by law" in line 18, Section 9, be stricken.

PRESIDENT EGAN: The two words "by law"?

MCLAUGHLIN: "...by law".

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent for the adoption of the amendment.

UNIDENTIFIED DELEGATE: Objection.

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

MCLAUGHLIN: Rather than raise the issue, I withdraw and will take it up in Style and Drafting. I just wanted to get it cleaned up.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I'm not going to offer an amendment, but just for the record, I'd like to have in there that I do not like to see any legislature, or any city council, or any governing body of any political subdivision borrow beyond the anticipated revenues of their term of office.

PRESIDENT EGAN: Are there any further amendments to Section 9? Are there any amendments to Section 10?

BUCKALEW: I have an amendment to Section 9, but Mr. Fischer's amendment didn't take so I will have to redraw it, so could I reserve the right to present it tomorrow?

PRESIDENT EGAN: You have it on your desk, Mr. Buckalew?

BUCKALEW: It's on the Chief Clerk's desk.

PRESIDENT EGAN: It's never been presented yet.

BUCKALEW: Well, that's fine. I'll just wait for tomorrow.

PRESIDENT EGAN: Are there amendments to Section 10? Mr. Nerland.

NERLAND: Mr. President, in Section 10 I have a Committee amendment. On page 4, on line 4, after the semicolon following "corporation" strike the rest of the section on lines 4, 5, 6, 7, and 8, and substitute "or to special assessments". I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Nerland moves the adoption and asks unanimous consent. Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 4, line 4, after the semicolon following 'corporation' strike the rest of the section on lines 4, 5, 6, 7, and 8, and substitute 'or to special assessments'."

PRESIDENT EGAN: Is there objection to Mr. Nerland's unanimous consent request? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 10? If not, are there amendments to Section 11? Are there amendments to Section 12? Section 13? Are there amendments to Section 13? Mr. Gray.

GRAY: Mr. Chairman, I'd like to ask the Chairman of the Committee if a certified public accountant is an independent of the executive under your proposal here? Is he in the position of what you might call a controller general? Might he be considered as a position of controller general, or just auditor?

NERLAND: I would say just auditor, it's not a permanent position, Mr. Gray. I could possibly be corrected on that.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, this conforms with the law that was passed at the last session, and this auditor works for the legislature; he audits the books of all the departments and is

answerable to the governor and the legislature only.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I have a question in regard to Section 12. I noticed that here the governor and the board of the budget prepare the appropriations bill and submit the bill to the legislature along with another bill for any appropriations above that regular appropriation bill. I wondered where that practice was drawn from. May I ask the committee that?

PRESIDENT EGAN: That's Section 11. Mr. Nerland, could you answer that? Mr. Barr.

BARR: It was taken from several other constitutions. It says, that "The governor shall also submit a general appropriation bill to authorize all proposed expenditures." It doesn't say there that that will be the final appropriation bill. That is within the authority of the legislature, but it could be a suggested appropriation bill. He sets forth his ideas in that bill as to how much should be appropriated for each department. However, the finance committee and the ways and means committee could take his bill and work it over and submit that to the legislature.

PRESIDENT EGAN: Are there other questions relating to Sections 11, 12, or 13, or other amendments? Mr. Doogan.

DOOGAN: Mr. President, I'd like to move that the words on line 7, Section 13, "governor and the" be stricken.

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

DOOGAN: I move for the adoption of the proposed amendment.

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

KNIGHT: Second.

PRESIDENT EGAN: And Mr. Knight seconds the motion.

DOOGAN: Mr. President, my purpose in doing that -- as I understand, this post auditor that the legislature employs here in the last few years is that he audits the books of the Territory, and as such, he is auditing the executive branch of the government for the legislature, and if that is the case, then I don't believe that he should be responsible to the governor at all; he should only be responsible to the legislature.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, he is actually responsible to the

legislature because the committee is your speaker of the house, chairman of the ways and means committee, chairman of the senate finance committee, and the president of the senate. The reason to report to the governor is just for information purposes for the governor, that's all. The committee itself is prescribed, the duties as prescribed by the legislature of this committee has complete control. It's just merely a matter of information that the report is given to the governor so that he knows what is going on in all the departments of the Territory, all the fiscal proceedings of the Territory have been reported to the governor, that's all.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, is it the intention of the Committee, or has there been any thought given to the fact that the postauditor shall follow down the accounts of the new state, even to municipal level, and other levels wherever there is any state money expended in matching funds or any other fashion; that the postauditor is directly answerable to the legislature, and he shall go right on down to the financial disposition of those funds.

NOLAN: That is the procedure. Any place where the state has expended or appropriated any money, will come under his audit.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this also says, "It is the duty of the auditor to conduct such postaudits as may be prescribed by law." That means that the legislature could have him audit just the principal departments on a particular year, and maybe have separate audits on matching funds through the controls which they exercise over those matching funds, so the extent of it would depend upon the legislature. I think I rather favor Delegate Doogan's amendment because I see they give priority to the word "governor". They say, "He shall report to the governor and the legislature..." That conveys the wrong emphasis. We either got to reverse those or else carry out Mr. Doogan's amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I would have no objection to reversing it, but there can be no misunderstanding when the legislature appoints this man and says that he shall report to the legislature; he can't be under the control of the governor in that case; but it's important that he report to the governor, because the legislature is not sitting perhaps at the time he completes his report, and if we are going to have a strong executive, this executive must have all this financial information at his fingertips; therefore, it is important that he report to the governor on this audit.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Doogan 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 any amendments to Section 13? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I got left behind on Section 12. (Laughter)

PRESIDENT EGAN: Mr. Rivers, if you have an amendment to Section 12, you may submit it. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 4, Section 12, line 25" -- it has already been stricken, Mr. Rivers. Something was substituted by the Committee.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has been informed that we have with us in the gallery the Fairbanks Chapter of the American Association of University Women. We are happy to have you with us this evening. (Applause) Mr. Smith.

SMITH: Mr. President, I would like to ask unanimous consent to revert to the introduction of committee proposals.

PRESIDENT EGAN: If there is no objection, Mr. Smith, we will revert to the introduction of committee proposals at this time.

SMITH: I would like to offer for the action by the Convention, Committee Proposal, No. 8/a introduced by the Committee on Resources, and I would like to ask that each delegate, that if they have the opportunity sometime this evening or tomorrow morning, to read the committee commentary, so that when we go into the article they will be as familiar as possible with it.

PRESIDENT EGAN: Would the Chief Clerk read Committee Proposal No. 8/a for the first time.

CHIEF CLERK: "Committee Proposal No. 8/a, introduced by Committee on Resources, STATE LANDS AND NATURAL RESOURCES."

PRESIDENT EGAN: The proposal has been referred to the Rules Committee for assignment for the calendar. Mr. Davis.

DAVIS: Has that been distributed?

PRESIDENT EGAN: It has just been distributed.

SMITH: It has been distributed and anyone who does not have a copy of it can get it from the Sergeant at Arms.

PRESIDENT EGAN: Any delegate that needs a copy of Committee Proposal No. 8/a, inform the Sergeant at Arms. Mr. Ralph Rivers.

R. RIVERS: I have an amendment to offer.

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

CHIEF CLERK: "Page 4, Section 12, line 25: insert the word 'unobligated' before the word 'appropriated'."

PRESIDENT EGAN: What is your pleasure, Mr. Ralph Rivers?

R. RIVERS: I offer the amendment for adoption.

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

NORDALE: I second it.

PRESIDENT EGAN: Mrs. Nordale seconds the motion. Is there discussion on the proposed amendment? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I pointed out before that there is a slight difference between appropriations outstanding and those that are unobligated, because sometimes contracts have been made before the warrants have gone through the treasury, so if we say "unobligated appropriations outstanding" then we have clarified the matter beyond a doubt.

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

BARR: Mr. President, I can see the purpose in this; it is a good purpose, but it seems to me that there might be some abuse. If I were a department head and I had a million dollars to spend within a certain period, if it weren't obligated within a certain time, I would see that it was obligated before that time. Of course, I might spend a little more money than necessary for fear I wouldn't get a bigger appropriation the next time. I think this takes more thought than we have given it.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, could I address a question to Mr. Barr?

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you

may.

MCNEALY: Then your thought, Mr. Barr, would be to strike the entire last sentence?

BARR: No, that is not correct.

MCNEALY: Well then, would you explain why putting in the word "unobligated", or by leaving out the word "unobligated", would that make the department head any more loath to release the appropriation without attempting to obligate it or get it outstanding?

BARR: If he spends 50 per cent of his appropriation, the appropriation would end at a certain period. Now I'll admit that he might do the same, he might try to get all these funds obligated within a certain time. But this is just, well, I might say, telling him what to do; pointing out how it should be done.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. Barr, isn't this normally a legislative matter?

BARR: Yes, it is, but this makes it permanent. Some states at periodic intervals put in actual law saying that all funds left over from an appropriation should be returned to the treasury; and, I believe we have one. I'm not sure whether it passed or not, but I remember this was argued in the legislature, and it was pointed out that there was a balance from some of these appropriations that have been in special funds for years.

HELLENTHAL: The sentence says, "All appropriations outstanding at the end of a period of time specified by law," that is, the legislature, shall be void. Well, the legislature has to get on this process to specify the period of time. So as long as they have to get into it, why don't they go a little bit further and say, "Unless it is still outstanding at the end of this period, you've got to give it back."

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: For once I have to agree with Ralph Rivers on this situation of adding a word in here, which does clarify the situation. Perhaps Mr. Barr doesn't understand the principle under which our fiscal operation of the Territory now functions. In other words, each quarter the department heads must come up to the preauditor, and he has to substantiate his quarterly demand for his withdrawal on the appropriation. Consequently, if there were monies additional left over that hadn't actually been budgeted out on the basis of his reporting and his demand for a budget on the legislature, some of those funds were not

expended, it seems to me that it would be highly unlikely that he could go to the preauditor in the last quarter and substantiate the obligation of these funds that hadn't already been obligated. Consequently, I think that this is a good amendment here. I don't see how the situation could possibly arise which Mr. Barr says will arise under our new fiscal arrangement for the Territory.

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

MCNEES: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

DOOGAN: Point of order, Mr. Chairman.

PRESIDENT EGAN: Your point of order?

DOOGAN: You already stated the verdict.

PRESIDENT EGAN: The Chair hadn't actually stated the verdict. The Chief Clerk will call the roll.

MCNEES: I'll withdraw the request for a roll call.

PRESIDENT EGAN: Is there any other request for a roll call, other than the one made by Mr. McNees? If not, the "ayes" have it, and the proposed amendment is ordered adopted. Are there other amendments to Section 12? Are there amendments to Section 13? Mr. Kilcher.

KILCHER: Mr. President, I move and ask unanimous consent that the words "governor" and "legislature" be interposed.

PRESIDENT EGAN: You're moving, Mr. Kilcher, that those four words be deleted and in lieu thereof the words "legislature and the governor" be inserted?

KILCHER: Yes, sir, reversed.

PRESIDENT EGAN: The Chief Clerk will please read --

NERLAND: The committee has no objection.

PRESIDENT EGAN: Do you so move for its adoption, Mr. Kilcher?

KILCHER: I ask unanimous consent.

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

CHIEF CLERK: "Line 7, Section 13, the words 'governor' and 'legislature' be reversed so that it will then read: 'and to report to the legislature and the governor'."

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

MCNEALY: Point of inquiry, Mr. President.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Section 14 here is -- I assume that there is no harm done to be in this section, however, it is generally carried either under the schedule or in the miscellaneous provisions in the constitution. Now that may be a matter for Style and Drafting, and if it is -- however, we in the Ordinance Committee will also have a similar provision to bring up before the miscellaneous provisions and we would like to have that also considered at that time.

PRESIDENT EGAN: Mr. Nerland, do you have anything to say to that?

NERLAND: Well, I'm sure I can speak for the Committee in saying that we would have no objection as to where it might appear; it's part of the last enabling act that it must appear.

PRESIDENT EGAN: It could be a matter for Style and Drafting. Are there other amendments? Mr. White.

WHITE: Mr. President, I have a comment on that point. The only thing that came up in the Committee about keeping this particular paragraph there was brought out by one of the consultants who said that there might be debts owed to the Territory for a long period of time before they were cleaned up, and in that light, there might be some reason for keeping this particular section under the finance section rather than in the ordinance or transitory section of the constitution.

PRESIDENT EGAN: Because of the fact that we have two sections held in abeyance and also a notice of reconsideration on an amendment, the Chair would entertain a motion for adjournment at this time. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Are there any committee announcements to be made at this time? If not and if there are no objections, the Convention will stand adjourned until 9:00 o'clock tomorrow morning.