

**ALASKA CONSTITUTIONAL CONVENTION**

January 19, 1956

FIFTY-EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us Reverend Moore of the Seventh-Day Adventist Church. Reverend Moore will give our daily invocation.

REVEREND MOORE: Our kind heavenly Father, it is a privilege this morning to be able to call upon You again and invite Thy presence here. We would ask You to be with this group as they are working toward a constitution for our great Territory. We ask Thee to guide and direct them in every step as they divide into different study groups, into committees. We ask Thee to direct them. Help them to formulate plans which will be far reaching and which will prove a blessing to each one involved. We would ask Thee to be with the rest of the great nation. Help us to ever cherish the principles of liberty by which we are now a free and mighty country. We ask in Thy Holy Name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: 2 absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. We will hold the report of the Committee to read the Journal until later in the day. Are there any communications from outside the Convention? Are there reports of standing committees? Of select committees? Are there any motions or resolutions? Is there other unfinished business? Mrs. Hermann.

HERMANN: Mr. President, as the President will remember, we had reports from the people who went out into their communities to hold hearings during the hearing recess, and at that time Mr. Nolan and Mr. Peratrovich were absent and it seemed to me we ought to bring the reports up to date by having a word from them about the progress of the hearings in their communities.

PRESIDENT EGAN: If there is no objection, Mr. Peratrovich, would you care to report on any hearings you might have held in your community?

PERATROVICH: Glad to. Mr. Chairman, I was very fortunate in a way; I held hearings in two places, in my home town of Klawock and also Craig, and I had a good response, especially in Craig

I think I put it over so well they even had a little lunch for me after the meeting which was very encouraging. The great interest was in the matter of apportionment and I explained it the way we outlined it in our Committee and also emphasized the fact it was subject to approval on the floor, and it went over so well I think one of the men at Craig asked me if I could guarantee that this program would be adopted. I told him I could almost bet on it, and I was very fortunate it went through without much change. So, that particular angle which they were very much interested in, was very well received. The same holds in Klawock; they were very much interested. In their case, the representation that was recommended at that time, which is possible now I assume, was very agreeable to them, not because they had any political ambitions, but they could grasp the idea that they would be represented in the legislature in the lower house, which they thought was a very good thing, and I touched upon all the other committee reports as the best that I could, and it was well received. They seemed to be very much enthused over what we are doing here, and I am sure that in the end they will participate in its approval, and the school principals of both Klawock and Craig are making that part of their subject of studies in both their classes. They take it up in the history classes; they are following your activities here, and I have been forwarding some of the materials that I could pick up on the promise that I would, when I was there, and the students are much interested, also, just like the children up here in your schools; so, they are following it up pretty closely, and I know that the report that I gave will perhaps encourage a good many of you because you don't very often hear from the outlying districts, and contrary to the opinion of a good many people, they are showing a great deal of interest and I was very much pleased to see the reaction, the interest that was shown. That is about all I can give.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: I held a meeting sponsored by the Chamber of Commerce on rather a short notice. It included about 14 people I think representing most of the large groups in the town. The meeting lasted about two hours and a half. There was quite a bit of discussion. The people were very, very much interested. A number of people came to me afterwards and said they were sorry they could not attend it. Some of the people talked with me afterwards and said they did not quite realize the scope of the project of drawing up a constitution. They were unanimously in favor of electing an attorney general. I did not give them any help on it, either. They did not like the idea of a 60-member legislature at this time, and they did not like the idea of a third of the governor's salary being tied into the salary of the legislature. Of course, I explained to them that many of these

things would probably be changed. I think I must have held a meeting at least once every hour all the time I was home because somebody seemed to be dropping into the store, and there were always questions that I was answering continuously. It seemed to me that, as Mr. Peratrovich said, the interest had picked up considerably, and the suggestion was made to me after this constitution is drawn that another meeting be held for me to try to explain some of the provisions in it; they thought that would probably be better than trying to digest the whole thing themselves. So I told them that if there were enough interested we would hold a meeting of that kind after we had finished, and when I got back home I would be glad to hold a meeting and explain it to the best of my ability. I would say, offhand, that the interest has picked up considerably in Wrangell.

PRESIDENT EGAN: Thank you, Mr. Nolan. We have before us this morning Committee Proposal No. 6/a, the proposal on local government. Mr. Hinckel.

HINCKEL: I have an amendment to 8/a.

PRESIDENT EGAN: You still want 8/a before us in the amendment process?

DAVIS: We have a reconsideration.

PRESIDENT EGAN: That is right. He can make that reconsideration move any time before adjournment today.

HINCKEL: Proposal No. 8/a was never turned over to the Committee. I have an amendment I would like to make.

PRESIDENT EGAN: It was not, Mr. Hinckel, because there was a move for reconsideration made, but the Chair had called for further amendments. This is a proposed amendment to the article on resources. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 12, page 5, lines 15, 16 and 17, place a period after the word 'law' and strike the balance of the section."

HINCKEL: I move the adoption of the amendment.

COOPER: I second the motion.

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

HINCKEL: My reason for offering this amendment is that I approached the Committee a couple of times yesterday to try and

limit the areas that would be permitted to be leased or rather permits given for prospecting, and I did not get explanations that were satisfactory to me. I finally decided that I must be wrong and I would not offer them. But after sleeping on it, I decided in order to live with myself I would have to make at least one more attempt because I can feature Alaska being sliced up like a piece of pie and large corporations who will be given the exclusive right to prospect, and I just don't like it. The explanations offered to me was that this interpretation was supposed to be very narrow and only the companies who had the greatest integrity, or words to that effect, would be permitted to have permits. To me that makes it sound all the worse. The more I think about it -- apparently they mean that only big corporations, well-financed, etc., would be permitted to have such things. I can understand that possibly in exploring for oil or shale or some of these other things that they list, that it might be necessary to do that, and I don't want to interfere with the prospecting in the advancement of the state, but I don't want to see small people prevented from prospecting, and I cited to the Committee yesterday that over in Kodiak there has not been much prospecting for a long time. Over there right now, there is a small corporation of interested people, business people, and just individuals that reside there, that are interested in prospecting, that have formed a small corporation and are actively prospecting. If there is some interest by large companies over there, now when these large companies were able to go to the state and get a permit to prospect the entire island to the exclusion of everyone else, which would be possible under the phraseology of this section, it would just prevent anyone else from prospecting at all the way I interpret the thing. If somebody can prove I am wrong, I would like to have them explain it, but in any event, I wanted the body to understand how I interpret it, and that I object to such a thing.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I am very sympathetic to giving exploration rights for periods in certain areas in Alaska, and I am not worried about that sort of thing at all, but the way this is drawn now, I have very serious doubts if the legislature will ever implement, and I think that it will never be used, and my objections are similar to Mr. Hinckel's, but it says that exclusive right of exploration may be granted, and literally reading this thing that means an exclusive right for all mining purposes. In other words, it would include coal, oil

BOSWELL: Point of order, Mr. President. If I heard Mr. Hinckel's amendment correctly, it was not on this subject, whatsoever, that we are discussing. Could we have it read again?

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

HELLENTHAL: I think it has a very definite bearing on Mr. Hinckel's amendment.

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

CHIEF CLERK: "Section 12, page 5, lines 15, 16 and 17, place a period after the word 'law' and strike the balance of the paragraph."

PRESIDENT EGAN: It refers in that, Mr. Boswell, to the exclusive right that is mentioned up above though on those like property and leases.

BOSWELL: Page 4?

CHIEF CLERK: No, page 5.

BOSWELL: Excuse me, I had the wrong page.

HELLENTHAL: My point is that these like permits are so impractical that they'll never be granted and the people who want them won't be able to get them. Now originally, I had thought there should be specific language included here that these exclusive rights would be subject to reasonable concurrent uses as to different minerals. In other words, I think it should be spelled out here that if you give an exclusive right of exploration to an oil company that the legislature may also provide for a similar exclusive right in the same area to another group, perhaps, for mineral exploration. I don't think it should all be in one hand, in the hands of one group. And then I was told that that was in there by implication. Since then I have found out it is not because we agreed yesterday in Committee that the right of concurrent use was limited to the water resource and if there is any question about it, I think that the right to concurrent uses in these areas where rights of exploration are given should be spelled out in this matter because as long as the legislature has any doubt about it, they are not going to grant any rights of exploration. They are not going to tie it up in one outfit for all purposes and that simple language included in there would make this thing workable. I am afraid it is not going to be workable.

PRESIDENT EGAN: Mr. White.

WHITE: I am not sure whether I heard Mr. Hellenthal correctly or not. If I did, I think he made a misstatement in speaking of

concurrent uses. I call your attention to new Section 9: "The legislature may provide for the leasing of any part of the public domain, or interests therein, subject to reasonable concurrent uses." The intent of the Committee was that concurrent uses applied where applicable to all resources and to all lands.

HELLENTHAL: Does it apply to permits?

WHITE: I certainly read that section as applying to permits. "Leases, and permits giving exclusive right of exploration for specific periods and areas may be authorized for exploration." There is nothing there that would prevent concurrent use of those lands where possible.

HELLENTHAL: May I direct another question to Mr. White? But you refer to Section 9. It says "...leasing of the public domain subject to reasonable concurrent uses." That is true, but here in this section regarding exclusive exploration rights, we are dealing with permits, also, and the permits don't have to be subject to reasonable concurrent uses.

WHITE: There is nothing that says that such land subject to permit shall not also be subject to concurrent uses through other permits or through leases.

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

RILEY: Mr. President, I think there has been more or less a misunderstanding here between the Committee and possibly Mr. Hinckel. I, too, have given this some thought since we left here last evening, and I had thought that Mr. Hinckel's amendment might be somewhat different, although bearing on the same paragraph. Last evening he had submitted an amendment to the Committee, the submission of which I personally had encouraged and I had hoped it would come out on the floor. We discussed it under rather unfortunate circumstances late last evening in Committee, very hurriedly with the gallery jammed and not too much opportunity for undivided attention. That particular amendment would have sought to have stated or limited areas and for periods of time for which these exclusive prospecting permits or exploration permits might have been issued. It did not come out on the floor. I think it would still be appropriate. His amendment this morning would seem to me to go much farther but not to get right to the problem of limitation, and I, personally, not speaking for the Committee, but for myself, still think that consideration might properly be given to the thought which his amendment of last evening embraced in the nature of a limitation to be directed by the legislature as to both time and area. We have felt that while the matter is not covered in the constitution that the existing pattern of federal limitations would be

inherited by the state, just by provisions of the enabling act whereby the state would take over existing leases. That might not be sufficient for the state's purposes or might not be sufficient to satisfy Mr. Hinckel's thinking in proposing such an amendment, should he do so. The only objection I had to his amendment as it came in was that it would have tied, as I recall, the state to the existing federal pattern, or I may be mistaken on that, it would have tied the state to the federal pattern, whatever it might be, without certainty on our part, and I thought to correct that, if we could place any reliance on the legislature to keep abreast of the times by giving them that directive, it might cure the situation.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would be willing to read the proposal I made last night for the information of the body.

PRESIDENT EGAN: Mr. Hinckel, would you desire a recess at this time for a few minutes?

HINCKEL: I don't think so. I talked to the Committee and I didn't get to first base.

SMITH: I was going to suggest we have a five-minute recess to discuss this and I will so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Smith asks unanimous consent for a five-minute recess. Mr. Barr.

BARR: I just want to say there are quite a few of us here concerned about the same thing and we would like to have this written so it is spelled out that there is no exclusive right on prospecting.

PRESIDENT EGAN: If there is no objection, then the Convention will stand at recess for the purpose of allowing the Committee and interested persons to be heard.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Chief Clerk may proceed with communications we have before us at this time. You may read that communication.

(The Chief Clerk read a communication from the Arctic Circle Chamber of Commerce, Kotzebue, protesting certain provisions in the legislative article.)

PRESIDENT EGAN: The communication will be filed. If any delegate wishes to see the communication, he may. We have a few

other communications, Mr. Hinckel, then we will proceed with your proposed amendment.

CHIEF CLERK: Four telegrams from Anchorage, recommending the adoption of the Alaska Sportsmen Council provision in the constitution. They are signed by Ed M. Howell, Alaska Sportsmen's Council and Alton B. Cross, Alaska Range Association.

PRESIDENT EGAN: The communications will be filed. Mr. Hinckel.

HINCKEL: I wish to ask consent to withdraw my amendment with the understanding that the Committee has amendments that they wish to offer which will accomplish the result.

PRESIDENT EGAN: Mr. Hinckel asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Smith.

SMITH: Mr. President, the Committee has two amendments to offer and Mr. Riley, I believe, will offer the amendments.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I will ask the indulgence of the body to give these orally if I may, they are both brief. New Section 9, page 3, line 16, after the third word "of" add the words "and the issuance of exploration permits to".

STEWART: I think that word should be "on", Mr. Riley.

RILEY: "On" would be acceptable.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment using the word "on".

CHIEF CLERK: You mean strike the "of" and insert "on"?

RILEY: No, this is following "of".

CHIEF CLERK: Following "of" insert "and the issuance of exploration permits on".

PRESIDENT EGAN: Mr. Riley.

RILEY: That should be read in conjunction with the next so I will make it one amendment. The second is on page 5, line 11, after the word "areas" insert a comma and add "subject to reasonable concurrent exploration as to different classes of minerals,". I ask unanimous consent, Mr. President, that the Committee amendment be adopted.



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

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

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

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

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

RECESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Barr.

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

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

ROSSWOG: The Local Government will meet in the gallery.

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

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



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

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

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

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

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

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

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

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

ROSSWOG: Just a short recess now would be satisfactory.

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

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

SECRETARY: They will be here all morning.

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

RECESS

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

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

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

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

PRESIDENT EGAN: Mr. Johnson.

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

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

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

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

PRESIDENT EGAN: Mr. Coghill.

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

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

COGHILL: The borough may?

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

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

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

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

ROSSWOG: Yes.

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

ROSSWOG: I think that is correct.

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

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

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

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

PRESIDENT EGAN: Mr. Victor Rivers.

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

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

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

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

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

ROSSWOG: It could be.

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

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

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

PRESIDENT EGAN: Mr. Fischer.

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

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

constitutional provision, that the borough assembly can do it.

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

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

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

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

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

COGHILL: I think you are, Mr. Rivers, and may I further the

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

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

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

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

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

PRESIDENT EGAN: Mr. Fischer.

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

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



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

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

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

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

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

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

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

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

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

COGHILL: Thank you.

PRESIDENT EGAN: Mr. Robertson.

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

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

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

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

PRESIDENT EGAN: Mr. Davis.

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

PRESIDENT EGAN: Mr. Davis, you may.

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

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

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

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

HELLENTHAL: You mean independent?

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

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

PRESIDENT EGAN: Mr. Hellenthal.

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

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

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

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

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

PRESIDENT EGAN: Mr. Rivers.

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

PRESIDENT EGAN: Mr. Johnson.

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

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

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

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

V. FISCHER: That is right.

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

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

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

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

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

PRESIDENT EGAN: Mr. Doogan.

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

PRESIDENT EGAN: Mr. White.

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

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I believe it could conceivably happen that way.

PRESIDENT EGAN: Mr. Hellenthal.

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

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

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



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ROSSWOG: Possibly, yes, it would.

V. RIVERS: Yes, it would.

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

ROSSWOG: Yes, they would.

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

ROSSWOG: Possibly, or when it was decided upon.

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

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

HELLENTHAL: How many incorporated school districts remain in Alaska?

V. RIVERS: Nine, Mr. Hellenthal.

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

COGHILL: We are a city school district.

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

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

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

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

PRESIDENT EGAN: Mr. Victor Rivers.

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

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

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

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

PRESIDENT EGAN: Mr. Doogan.

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

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

PRESIDENT EGAN: Mr. Barr.

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

PRESIDENT EGAN: Mr. Sundborg.

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

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

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

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

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

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

RECESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. White.

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

PRESIDENT EGAN: Mr. Doogan.

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

local government?

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

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

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. White.

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

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

PRESIDENT EGAN: Mr. Londborg.

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

PRESIDENT EGAN: Mrs. Nordale.

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

ROSSWOG: That is the proposal.

PRESIDENT EGAN: Mr. Hurley.

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

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

PRESIDENT EGAN: Mr. Lee.

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

PRESIDENT EGAN: Mr. Hellenthal.

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

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

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



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

HELLENTHAL: Would it be desirable to make them minimums?

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

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

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

PRESIDENT EGAN: Mr. Coghill.

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

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

COGHILL: But that was your intention?

ROSSWOG: Somewhat along that line, yes.

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

POULSEN: May I ask the Committee a question?

PRESIDENT EGAN: You may, Mr. Poulsen.

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

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

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

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

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

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

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

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

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

ROSSWOG: I did not get that question.

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

PRESIDENT EGAN: Mr. Londborg.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

METCALF: That helps a little, I think.

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

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

PRESIDENT EGAN: Mr. Boswell.

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

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

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

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

PRESIDENT EGAN: Mr. Coghill.

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

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

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

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

PRESIDENT EGAN: Mr. Doogan.

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

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

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

COGHILL: They have the power to do it?

DOOGAN: That is right.

PRESIDENT EGAN: Mr. Hinckel.

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

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

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

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



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

PRESIDENT EGAN: Mr. White.

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

PRESIDENT EGAN: Mr. Victor Rivers.

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

PRESIDENT EGAN: Mr. Londborg.

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

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

PRESIDENT EGAN: Mr. Cross.

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

PRESIDENT EGAN: Mr. Hurley.

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

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

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

PRESIDENT EGAN: Mr. Hurley.

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

PRESIDENT EGAN: Mr. Doogan.

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

ROSSWOG: Certainly.

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

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

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

ROSSWOG: Yes, that is right.

PRESIDENT EGAN: Mr. Fischer.

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

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

PRESIDENT EGAN: Mr. Hellenthal.

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

V. FISCHER: Yes, it does.

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

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Londborg.

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

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



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

LONDBORG: That is correct.

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

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

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

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

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

ROSSWOG: Yes, Mr. President.

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mrs. Sweeney.

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

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

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

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

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

RECESS

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

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

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

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

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

(The Chief Clerk read the amendment again.)

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

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

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

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

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

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PRESIDENT EGAN: Mr. White.

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

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

ROSSWOG: No, they're not.

PRESIDENT EGAN: Mr. Londborg.

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

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

HILSCHER: Mr. President --

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

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

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

PRESIDENT EGAN: You may ask a question.

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

ROSSWOG: No, it would not.

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

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

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

SUNDBORG: I second the motion.

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

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

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

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

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

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

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

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

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

CHIEF CLERK: Yes.

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

PRESIDENT EGAN: You may, Mr. Johnson.

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

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

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

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

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

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

HELLENTHAL: Did Mr. Robertson ask unanimous consent?

ROBERTSON: No, I just asked a question.

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

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

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

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

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

PRESIDENT EGAN: Mr. Fischer.

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

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

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

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

CHIEF CLERK: I have a committee amendment.

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

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

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

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



(The Chief Clerk read the proposed insertion again.)

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

ROBERTSON: May I ask a question?

PRESIDENT EGAN: You may ask your question.

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

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

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

PRESIDENT EGAN: Are there amendments for Section 13?

CHIEF CLERK: I have a committee amendment.

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

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

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

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

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

HINCKEL: May I ask a question?

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

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

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

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

PRESIDENT EGAN: Mr. Hinckel.

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

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

PRESIDENT EGAN: Mr. Johnson.

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

PRESIDENT EGAN: You may, Mr. Johnson.

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

PRESIDENT EGAN: Mr. Rosswog.

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

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

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

PRESIDENT EGAN: Mr. Coghill.

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

V. FISCHER: Yes.

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

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

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

McLAUGHLIN: Point of order.

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

McLAUGHLIN: Has the Committee been consulted on this matter?

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

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

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

PRESIDENT EGAN: Mr. Hellenthal.

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

KNIGHT: I'll second it.

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

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

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

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

PRESIDENT EGAN: Mr. Hurley.

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

PRESIDENT EGAN: Mr. Gray.

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

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by Mr. Hellenthal, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "noes have it and the proposed amendment has failed of adoption. The Chair would like to state at this time that there will be pictures of the Juneau fire on TV at 7:00 p.m.

UNIDENTIFIED DELEGATE: What channel?

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

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

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

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

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

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

ROBERTSON: I so move.

PRESIDENT EGAN: Mr. Robertson so moves.

HELLENTHAL: I'll second it.

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

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

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

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

PRESIDENT EGAN: Mr. Robertson.

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

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

PRESIDENT EGAN: Mr. Fischer.

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

R. RIVERS: I withdraw my objection.

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

ROBERTSON: I renew my motion for unanimous consent.

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

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

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

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

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

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

PRESIDENT EGAN: If there is no objection.

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

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

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



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

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

HURLEY: Yes.

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

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

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

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

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

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

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

HINCKEL: But you would call that an organized borough?

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I yield to Mr. Johnson.

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

V. FISCHER: Yes. Certainly.

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

PRESIDENT EGAN: Mr. Hurley.

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

PRESIDENT EGAN: Mr. Metcalf.

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

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

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

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

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

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

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

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

V. FISCHER: Yes.

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

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

PRESIDENT EGAN: Mr. Kilcher.

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

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

PRESIDENT EGAN: Mr. Fischer.

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

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

V. FISCHER: May I answer your question?

KILCHER: Yes.

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

KILCHER: Thank you.

PRESIDENT EGAN: Mr. White.

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

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

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

RECESS

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

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

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

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: No.

McNEES: All right. Thank you.

PRESIDENT EGAN: Are there other questions? Mr. Emberg. EMBERG: I'd like to ask a question of the Committee in reference to Section 7.

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Sundborg.

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

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

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

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

PRESIDENT EGAN: Mr. Coghill.

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

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

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

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

RECESS

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

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

PRESIDENT EGAN: Mr. Rosswog.

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

COGHILL: With standing committee announcements.

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

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

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

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

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

PRESIDENT EGAN: How about the other delegates?

RILEY: That wasn't covered.

PRESIDENT EGAN: Mr. Doogan.

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

RILEY: One time around.

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

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

PRESIDENT EGAN: The Convention will come to order.

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

PRESIDENT EGAN: Mrs. Sweeney.

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

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

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

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



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

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