

CONSTITUTIONAL CONVENTION
of the
NORTHERN MARIANA ISLANDS

VERBATIM JOURNAL (TRANSCRIPT)

SIXTEENTH DAY
Tuesday, November 2, 1976

rec'd
11-17-76

(1) The Constitutional Convention of the Northern Mariana Islands was called to order at 9:18 a.m.

The Honorable Lorenzo I. Guerrero, President, presided.

(2) A moment of silent prayer was observed.

(3) The Convention Secretary called the roll. There were 38 Delegates present. Delegate Felipe Atalig was excused. No Delegates were absent.

Floor Leader Rasa: I move that the Delegate not in attendance be granted leave of absence.

The motion was seconded and carried.

(4) ADOPTION OF THE JOURNAL

Floor Leader Rasa: I move we adopt the Summary Journals for the 12th, 13th, 14th and 15th Days.

The motion was seconded and carried.

(5) COMMUNICATIONS - None

(6) COMMITTEE REPORTS

Chairman Benigno Fitial: Your Committee on Finance, Local Government and Other Matters has completed its analysis of two important subjects: taxation and debt, and we have the honor of presenting this Convention this morning two sets of Recommendations and accompanying Reports for consideration of the Committee of the Whole. Copies of these documents have already been distributed to each Delegate this morning.

Committee Recommendation No. 5 deals with taxation. Two critical matters are respectfully proposed for consideration. First, your Committee strongly recommends that the Constitution prohibit levying of taxes or appropriation of funds except for a public purpose. Public funds could not be used for private purposes. This restriction, Mr. President, would not apply to appropriations for assistance to industrial development projects in which private investors also participate when the undertaking serves a public purpose for the benefit of the Commonwealth.

Second, your Committee has a recommendation on the subject of tax exemption. We concluded, after careful analysis, flat prohibitions and specific exemptions should not be in the Constitution. But we recommend and commend to the consideration of the Delegates a constitutional requirement that the Governor prepare and submit to the Legislature, every five years, a report on the use of statutory tax exemptions that may be granted. This report would analyze the use, social, and economic impact of the exemption, as well as its consequences with respect to achieving a balanced budget.

Mr. President, the Committee on Finance, Local Government and Other Matters also submits Recommendation No. 6 dealing with Commonwealth debt. In the judgment of your Committee, it is imperative that borrowing for public improvements be done with caution, and pursuant to well-ordered physical improvement plans. Moreover, it is imperative that limitations be placed on the amount of debt that can be incurred by the Commonwealth Government and its political subdivisions.

Therefore, we propose that the debt limitation contained in the Covenant be made a part of the Constitution. That will assure that borrowing by way of general obligation bonds be limited at any one time to not more than ten percent (10%) of the assessed value of property in the Commonwealth.

We, also, have a second recommendation to control debt. This applies both to general obligation and revenue bonds. Under the Committee's proposal, no public debt shall be authorized or incurred unless approved by a two-thirds vote of the members in each house of the Legislature.

The capacity of our people to achieve their dreams cannot be done without cost. We must plan carefully, consider wisely, and spend cautiously. This is the essence of the two sets of recommendations that we submit this morning.

I thank you.

Chairman Jose P. Mafnas: Your Committee on Governmental Institutions is still considering the "Executive Branch of Government."

(7) INTRODUCTION AND FIRST READING OF PROPOSALS

Chairman Benigno Fitial: At this time I would like to introduce Committee Recommendations No. 5 and 6 from the Committee on Finance, Local Government and Other Matters, concerning Commonwealth Taxation and Commonwealth Debt, for First Reading.

Referral of Proposal

Delegate Proposal No. 127, entitled "Proposal Regarding Preamble.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 128, entitled "Proposal Regarding Regulation of Business.", was referred to the Committee on Finance, Local Government and Other Matters.

Delegate Proposal No. 129, entitled "Proposal Regarding a Land Corporation.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 130, entitled "Proposal Regarding the Official Languages of the Commonwealth.", was referred to the Committee on Finance, Local Government and Other Matters.

Delegate Proposal No. 131, entitled "Proposal Regarding Alien Immigration Quota into the Northern Marianas.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 132, entitled "Proposal Regarding Executive Branch Offices.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 133, entitled, Proposal Regarding Personal Rights.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 134, entitled "Proposal Regarding Legislative Branch.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 135, entitled "Proposal Regarding Bill of Rights.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 136, entitled "Proposal Regarding Economic Development.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 137, entitled "Proposal Regarding Natural Resources.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 138, entitled "Proposal Regarding Education.", was referred to the Committee on Finance, Local Government and Other Matters.

Delegate Proposal No. 139, entitled "Proposal Regarding the Commonwealth Legislature.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 140, entitled "Proposal Regarding Public Land Matters.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 141, entitled "Proposal Regarding Refusal.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 142, entitled "Proposal Regarding Preamble.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 143, entitled "Proposal Regarding Consultation on Matters Involving the Commonwealth of the Northern Mariana Islands.", was referred to the Committee on Governmental Institutions and the Committee on Finance, Local Government and Other Matters.

Delegate Proposal No. 144, entitled "Proposal Regarding Members of the Medical, Dental, Nursing and Education Professions.", was referred to the Committee on Finance, Local Government and Other Matters.

Delegate Proposal No. 145, entitled "Proposal Regarding Executive Branch of Government.", was referred to the Committee on Governmental Institutions.

Delegate Proposal No. 146, entitled "Proposal Creating Environmental Protection Board.", was referred to the Committee on Personal Rights & Natural Resources.

Delegate Proposal No. 147, entitled "Proposal Regarding Mass Transit.", was referred to the Committee on Finance, Local Government and Other Matters.

Delegate Proposal No. 148, entitled "Proposal Regarding the Taking of Census.", was referred to the Committee on Finance, Local Government and Other Matters.

- (8) SECOND AND FINAL READING OF PROPOSALS - None
- (9) INTRODUCTION OF RESOLUTIONS - None
- (10) UNFINISHED BUSINESS - None
- (11) SPECIAL ORDERS OF THE DAY - None
- (12) GENERAL ORDERS OF THE DAY

President Guerrero: We have three Committee Recommendations to be discussed today: Committee Recommendation No. 3 from the Committee on Personal Rights & Natural Resources, regarding "Initiative.", and reconsideration of Committee Recommendations No. 1 and 4 from the Committee on Finance, Local Government and Other Matters, regarding "Constitutional Amendment."

Floor Leader Rasa: I move that the Convention resolve itself into the Committee of the Whole.

The motion was seconded and carried.

President Guerrero: I would like to call on Delegate Jose R. Cruz, from Tinian, to Chair our Committee of the Whole this morning.

The Convention resolved into the Committee of the Whole at 9:30 a.m.

The Convention reconvened in the Plenary Session at 10:53 a.m.

Chairman Jose R. Cruz: Mr. President, your Committee of the Whole begs to report as follows: Proposal of Amendment No. 1 and Committee Recommendation No. 4 are approved by your Committee that it shall be incorporated in Section 5, stating: "An amendment proposed by Legislative Initiative shall be approved if it receives an affirmative vote of the majority of the votes cast. An amendment proposed by constitutional convention or by popular initiative shall become effective if approved by a majority of the votes cast and at least two-thirds (2/3) of the votes cast in two of the three municipalities."

The next report: Your Committee of the Whole begs to report as follows: that the matter brought before the Committee for further reconsideration on No. 3 "Initiative", and the Proposal by the Tinian and Rota Delegations be approved.

President Guerrero: That includes the amended version of the ...

Chairman Jose R. Cruz: That is correct, Mr. President. As I pointed out, the Proposal presented by the Delegations of Rota and Tinian.

President Guerrero: For the record, I want to call attention to the amendment. Can you also give that?

Chairman Cruz: Yes, Mr. President, your Committee approved as follows:

Section 1: Initiative. The people may enact laws by initiative.

a) An initiative petition shall contain the full text of the proposed law and shall be signed by at least twenty (20) percent of the total number of voters qualified to vote on the proposed law and if the petition proposes a general law that affects each chartered municipality the petition shall be signed by at least twenty (20) percent of the qualified voters in each of two of the chartered municipalities.

b) Initiative petitions shall be filed with the Attorney General for certification that the requirements of Section 1(a) have been met.

c) Initiative petitions certified by the Attorney General shall be submitted to the voters at the next regular general election, provided that such election is held at least 180 days from the date the initial petition is filed with the Attorney General.

d) An initiative petition submitted to the voters shall become law if approved by a two-thirds (2/3) majority of the registered voters, and shall take effect thirty (30) days after the date of the election unless the initiative petition itself otherwise provides.

Chairman Benigno Fitial: I move that the Convention adopt Committee Recommendation No. 4 as adopted by the Committee of the Whole on the amended constitutional provision regarding "Constitutional Amendments."

The motion was seconded.

Delegate Benjamin Manglona: I hate to disrupt the motion, but I need to be enlightened because there is a provision in our Rules of Procedure that all Constitutional provisions have to be approved by a three-fourths (3/4) vote. Is this the stage where we are going to vote on the Constitutional provision?

President Guerrero: For your information, at this time we are only adopting the report from the Committee of the Whole. After that, if there is a motion for passage on First Reading in the Plenary Session, then would be the appropriate time for any debate. I would like to make the Delegates aware that any proposed amendments to be taken up on Second Reading should be prepared in writing, distributed and thoroughly discussed during the Committee of the Whole.

Floor Leader Rasa: In that connection, also, we still have two readings coming up. One is the Second Reading, and we will resolve ourselves into Committee of the Whole and then go back into the Plenary Session. This will give those who want to propose amendments two chances. Plus, after the construction of the provisions, there will be a three-fourths (3/4) majority vote required. It is necessary to put all these pieces together so that we can see where we stand. If we continue to go on a piece-meal basis, we may delay the Constitution, and I suggest that all the people wishing to make amendments note that we distribute the Committee Reports before we place them on General Orders for the Day, so this should give them ample time to have their amendments in written form. This would also allow ample time for the Delegates to review amendments. So we still have three chances to amend all these provisions.

Delegate Benjamin Manglona: I certainly appreciate the explanation made by our Floor Leader, but I am still troubled by the procedure that, after we get all the constitutional provisions formulated, the 3/4 vote of the entire membership would be required. I feel that the Rota Delegation would do the Convention an injustice because one or two of the provisions are not to our satisfaction and we would have to veto the whole package. I would prefer that we would vote on the merit of each constitutional provision separately and then the entire package at the end of the Convention.

Delegate Jose R. Cruz: Point of information. As I understand it, the motion is simply requesting that the Convention accept the Committee of the Whole's report. Is that true?

President Guerrero: That is correct. We will now vote on the motion made to accept Committee Recommendation No. 4 from the Committee of the Whole.

A voice vote was taken and the motion carried.

Delegate David Maratita: I would like to move that we adopt the report of the Committee of the Whole regarding "Initiative," as amended, in Committee Report No. 3 from the Committee on Personal Rights and Natural Resources.

The motion was seconded and carried.

Floor Leader Rasa: I want it to be clear, that we adopt the Report as amended.

President Guerrero: Yes, adopted as amended. Now we should have a motion for the passage of the First Reading.

Floor Leader Rasa: There is in the Rules of Procedure and Robert's Rules of Order, "equivalence of terms." Motion to adopt, motion to accept and motion to pass and the same. There is no difference.

President Guerrero: That is the reason a Delegate has to be aware of what we are adopting. That means that any passage of a Committee's Report in this session means that it has been passed on its First Reading.

Delegate Jose R. Cruz: I would please like to ask that the Delegates of this Convention refrain from parliamentary trickery. Just a remark.

Delegate Herman Guerrero: Could I be enlightened? What constitutes First Reading and Second Reading of an article. I think when we pass a Committee's Recommendation with an article attached, that should not be constituted as a First Reading of that article. Is that the case?

President Guerrero: When the Committee of the Whole reports to the Plenary Session, and it is in favor of a particular Committee Recommendation, then that is the passage on the First Reading. This also includes passage of the attached article.

Delegate Jose R. Cruz: I would like to ask for some direction for my own enlightenment from the consultants on the matter brought before this Convention by the Floor Leader. Could they explain the three aspects mentioned in regard to acceptance, adoption and passage.

Floor Leader Rasa: I don't think there is any need. I quote from Robert's Rules of Order Newly Revised, page 422, fourth paragraph:

"EQUIVALENCE OF TERMS; INCORRECT MOTIONS. As applied to the assembly's action with respect to board or committee reports or any of their contents, the expressions adopt, accept, and agree to are all equivalent -- that is, the text adopted becomes in effect the act or statement of the assembly. It is usually best to use the word adopt, however, since it is the least likely to be misunderstood.

A common error is to move that a report "be received" after it has been read -- apparently on the supposition that such a motion is necessary in order for the report to be taken under consideration or to be recorded as having been made. In fact, this motion is meaningless, since the report has already been received. Even before a report has been read, a motion to receive it is unnecessary if the time for its reception is established by the order of business, or if no member objects."

Consultant Willens: I concur with the Robert's Rules of Order and the statement that was made by the Floor Leader. I think that the important point is that you are approving matters in principle by the Committee of the Whole and it to the full Convention and the procedures, as I understand the Chair and the Floor, are that receipt of that report amounts to approval, in principle, on First Reading. That is the way I understand the rulings of the Chair and the Floor Leader and I understand that is consistent with the Procedures that you have adopted and Robert's Rules of Order.

President Guerrero: Just as a reminder, we have that in item 35, of our Rules of Procedure. It states, "In cases concerning which the Rules contain no applicable provisions, the proceedings shall be controlled by Robert's Rules of Order."

Delegate Olympio T. Borja: There has been quite a bit of confusion, and I have shared in some of this confusion, especially as stated by Delegate Benjamin Mangiona.

When we accept the report from the Committee of the Whole we have also accepted the Committee Recommendation for the First Reading. This is, in essence, what all the discussion has been about. I hope this is clear to each Delegate.

Jose R. Cruz: While ignorance is not an excuse, I wish to appeal to the Chair, that the distinguished Delegate from Rota, Benjamin Manglona, emphatically expressed to this Convention, when you pose such a question, whether this Convention is merely accepting the Committee's Report, or is it accepting it on First Reading, Second Reading or Third Reading, for that matter.

Delegate David Maratita: I think that matters under General Orders of the Day which are recommended for acceptance by the Plenary Session by the Committee of the Whole, that would constitute First Reading.

President Guerrero: That is correct of any report adopted by the Committee of the Whole.

Delegate David Maratita: Now the Committee Recommendation will go to Second and Final reading on the Order of Business.

Floor Leader Rasa: I just want to point out that there is no need for us to follow Robert's Rules of Order since the adoption of Committee Recommendations is outlined in our Rules of Procedure. I don't think there is any procedural problem.

(13) MISCELLANEOUS

Delegate Benjamin Manglona: I am somewhat disappointed, because I understand that we have a procedural problem in this Convention. According to Public Law 4-45, and also stipulated in our Rules of Procedure, any provision for the Constitution must pass by a three-fourths (3/4) majority vote. I still don't understand at what point we are to apply that provision. I think the procedure must be stipulated if that is to apply to First Reading, Second Reading or whatever. We need to have assurance that no Constitutional Provision will be passed without following the provisions provided. Is it Third Reading that has to be roll call in order to see if three-fourth majority want acceptance of a provision? We are very much concerned as to this procedure.

President Guerrero: The most appropriate time to use the 3/4 majority vote is when a Recommendation is being considered for Second and Final Reading.

Delegate Olympio T. Borja: I want to supplement the ruling made by the President, in that, the Final Reading is the time for the Convention to pass a provision with three-fourths (3/4) majority. To give you one good example, the Secretarial Order for the new Legislature, required two readings. The First Reading was mostly discussion, but the Final Reading required a two-thirds (2/3) majority vote of the membership. The First Reading appears to be mostly discussion and the Second and Final Reading is where we vote in compliance with the Public Law.

Floor Leader Rasa: It is very possible for a three-fourths (3/4) majority on the First Reading and the Second Reading not to meet the three-fourths (3/4) majority. So that is why we have to have a 3/4 majority approval on the First Reading, not the Second Reading.

Delegate Jose R. Cruz: I just want the Chair to insure that a three-fourths (3/4) majority vote requirement will be administered on the Second Reading.

President Guerrero: You can be sure, this requirement will be made by the Chair.

(14) ANNOUNCEMENTS

Chairman Benigno Fitial: There will be a joint meeting of the Committees on Finance, Local Government and Other Matters and Governmental Institutions this afternoon at 2 o'clock.

Vice Chairman Palacios: The Committee on Personal Rights and Natural Resources will be at 1:30 p.m. this afternoon.

Delegate Pedro Dela Cruz: Point of privilege. Friday we had an Executive Session, yet Saturday morning, the newspaper covered the discussion regarding our Executive Session. What is the purpose of an Executive Session if the deliberations are going to be covered in the newspaper?

President Guerrero: I saw the newspaper, too, for your information, and I was a little disgusted because there were details of what we discussed.

Delegate Pedro Dela Cruz: Also, for the record, I would like to make it clear that the Rota and Tinian Delegations were not tight-lipped at that time. We justified our intentions, and that's to be clarified.

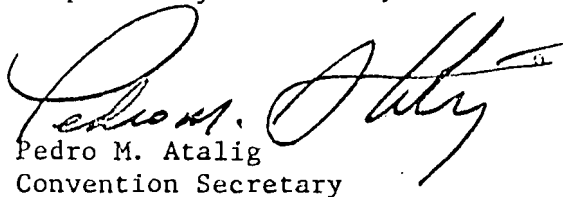
President Guerrero: I urge that if you meet with the Pacific Daily News representative again, make him correct it to show your position.

Floor Leader Rasa: I move that the Convention recess until 2:00 p.m. tomorrow afternoon.

The motion was seconded and carried.

The Convention recessed at 11:20 a.m.

Respectfully submitted,


Pedro M. Atalig
Convention Secretary

rec'd
11-17-76

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NORTHERN MARIANA ISLANDS

VERBATIM JOURNAL (TRANSCRIPT)

FIFTEENTH DAY
Monday, November 1, 1976

There was no Plenary Session this date, however, there were committee meetings.

Respectfully submitted,

[Signature]
Pedro M. Atalig
Convention Secretary