

## CHAMBER OF COMMERCE

Public Testimony on Draft Constitution  
Wednesday - November 17, 1976

The Chamber of Commerce wishes to thank the delegates here assembled for the opportunity to express our satisfaction with your labors and at the same time express our concerns with various sections of the draft constitution. Our Committee on Governmental Relations has had only 36 total hours to consider the document on which many have labored the past four weeks and we wish to reserve the right to offer our views in writing, time permitting, in addition to our public testimony here today.

The Chamber of Commerce is very concerned about the short time span allotted to the delegates of this Constitutional Convention to complete the Constitution for the Northern Marianas Government. It is better, by far, to take the time now and not have regrets later. The Chamber is also very concerned of the dichotomy that exists between Saipan on the one hand and Rota and Tinian on the other. This draft constitution regrettably displays this dichotomy to the detriment of all the people of the Marianas.

The legislation establishing this convention was extremely deficient in providing that representatives of only 13% of the population could and obviously did force at least a draft constitution through first reading that absolutely effectively deprives an overwhelming majority of the population simple constitutional rights to even amend that document.

We have assumed that since this draft constitution has been given for purposes of public testimony public exposure/and since only three weeks remain of your allotted time, that should we not concern ourselves somewhat with semantics, serious errors or omissions will occur in this historic document. Some of our recommendations are very specific, others ask that the delegates consider our observations seriously with a view toward amending the sections commented on to accommodate what we believe to be either essential provisions

or simply better draftsmanship. Further, there simply wasn't time to allow us to write and justify all of our recommendations; however we hope to justify all of our recommendations here in public hearing and/or later in written form.

## ARTICLE I. General.

Nowhere in the draft constitution is a provision commonly known as a "grandfather clause" to protect personal rights in long term leases already in existence or corporate charters and the like, that came into being approved by either the High Commissioner or the Resident Commissioner. We believe there should be such a clause in the Constitution.

### Section 3.

We believe subsections (b) and (c) should be deleted in that the basic paragraph on "Search and Seizure" to be all encompassing and really gives broader rights to the people, given the huge body of law protecting persons under this section of the U. S. Constitution.

### Section 7.

We strongly believe that laws currently in force banning hand guns should be retained and this provision of the draft constitution should be deleted as completely unnecessary. The U. S. military will have the responsibility to protect this United States Commonwealth in terms of emergency.

### Section 12.

This provision should be deleted as redundant. Article I Section 3 clearly protects individual privacy.

## ARTICLE II. General.

The Chamber basically is opposed to a bicameral legislature as unnecessarily expensive and dispute your consultants' observation in footnote 50 in the Briefing Papers on the Legislative Branch of the Government of the Northern Marianas. We believe the bicameral legislature provision of the Covenant was inserted at the eleventh hour to insure support of the Covenant by Tinian and Rota and can find no history in the negotiations suggesting that Tinian and Rota representatives in the Commonwealth Legislature were to be given veto power over legislation proposed by the representatives of the overwhelming majority of the voters.

### Section 1. Legislative Power.

This section should make it possible to eliminate many other sections of this draft.

## ARTICLE II.

### Section 2 (a).

The Chamber of Commerce is very disturbed at the composition of the Senate. It is simply too large in relation to our anticipated revenues, our population and our geography. We strongly recommend that the Senate be composed of six (6) members only and the figure two (2) be substituted for three (3) members in this section.

### Section 2 (b).

Should our General argument not prevail then we hope our recommendation of only two (2) Senators will be adopted.

### Section 2 (c).

We believe that following qualification should be adopted within this Section,

"No person who shall have been expelled from the Legislature for giving or receiving a bribe or being an accessory thereto, and no person who shall have been convicted of a felony under the laws of the Commonwealth, the United States, or the laws of any state of the United States, shall sit in the Legislature, unless the person so convicted shall have been pardoned and have had his civil rights restored to him."

Also add the words "or domiciliary" after the word resident on line 3.

### Section 3 (a).

The Chamber of Commerce is very disturbed at the composition of the House of Representatives. It is simply too large in relation to our legislative needs, our anticipated revenues, our population and our geography. We strongly recommend a House of Representatives of seventeen (17) members and the islands north of Saipan with fourteen (14) members from Saipan / , two (2) members from Rota and one (1) member from Tinian. We heartily agree to two year terms. The above distribution adequately complies with the one man-one vote rule with each Representative having about 800 population to represent. No increase should be allowed unless and until each representative should have 1200 voters each to represent.

Section 3 (b).

The same qualification as indicated in Section 2 (c) above should be added. Also add the words "or domiciliary" after the word resident on line 3.

Section 4 (b).

The word "final" should be deleted in the third line from the bottom of Page 7.

Section 5 (c).

We recommend you substitute the words "be enacted" for "become law" in the second line, and strongly recommend you substitute the word "members" for the words "votes cast" in the third line.

Section 7 (c).

There is no distinction made here as between Legislatures. We believe that after a new legislature has been elected all legislation previously enacted and not signed into law should be considered only upon being reintroduced.

Section 10. Vacancies.

We believe special elections too costly in such a small area and believe the Governor should be allowed the prerogative to appoint members to fill any vacancy in the House and Senate. Persons should be appointed from the constituency in which the vacancy occurred and no requirement should be made as to next highest vote getter in the last election.

Section 11.

We strongly believe that a \$12,000 annual salary is too expensive for our very small Commonwealth especially in view of the very low wages earned by most of our people. We recommend a salary of \$8,000 annually with a special allowance of an additional \$2,000 for the Speaker of the House and President of the Senate.

Section 12.

We strongly support the provisions of this section and suggest the words "or established by this Constitution" be added.

Section 13.

The following words should be added at the end of the sentence:  
"except for treason, felony or breach of the peace."

Section 14.

We strongly recommend that two (2) forty-five (45) day sessions spaced six (6) months apart are adequate for our Commonwealth. Any legislature that meets perpetually has a tendency to try to usurp the prerogatives of the Executive Branch.

Section 15 (b).

We believe the size of the legislature should be small and proceedings recorded in a daily journal available each day from the proceedings for the previous day. Committee reports should be in writing and available to all members before voting starts on any legislation. Competent legislative counsel(s) must be employed along with competent recorders to accomplish the task of the Legislature as required by the Constitution. In addition, since translation from Chamorro to English is a time consuming project at best all discourse for the public record should be required to be in the English Language with interpreters provided where required. It is now time to cease hiding behind the Chamorro language.

ARTICLE III.

Section 2.

Delete the word "and" between resident and domiciliary and substitute the word "or". Also add the same qualification as set forth in changes recommended for Article I, Section 2 (c) above changing the words "sit in the Legislature" therein to: "be elected Governor".

Section 8 (b).

We strongly recommend that all <sup>VERBAGE</sup> following the words "absent from the Commonwealth." be deleted. These deletions if allowed to stand would be a serious violation of the separation of powers. The wording is not needed and the function set forth is not a proper function of the court.

Section 9. General.

This section should provide for a date the Governor must submit the budget to the Legislature and we recommend not later than January 31 of each year. Further, a fiscal year for Government fiscal operations should be set for the Executive and we recommend the same fiscal year used by the U. S. Government to coincide with the appropriations expected from the U. S. Congress to support our Government.

ARTICLE III.

Section 12.

We strongly recommend the use of the Territorial Audit staff and outside CPA firms to audit government finances to prevent the buildup of a large inefficient "Public Auditor's" staff. We also recommend that the Constitution include, in the Public Auditor's responsibilities "audit of political subdivisions and any instrumentality of the Commonwealth."

Section 18.

Provide for exception of the collection of taxes imposed by the Legislature.

ARTICLE IV. General.

The Judicial Branch of the Government should be provided with separate budgetary authority.

Section 1.

The following words should be added after the word "Islands" in line 3:

"which is independent of the Executive and Legislative Branches of the Government herein established."

We are aware that Justice Hefner has written your consultants his views on Article IV, Judiciary. We are proud to associate ourselves with his recommendations.

ARTICLE V.

Section 3.

Delete last sentence and substitute language as set forth in recommendation for Article I, Section 2 (c). Also change the word "and" between resident and domiciliary to the word "or". Further, a clear line of authority and responsibility must be provided to provide for a clear assessment of where and why Government is not working.

Section 6.

We recommend Governor be given power to appoint until next general election.

ARTICLE VI.

Section 2.

It would appear that this provision requires a Mayor for the "Islands north of Saipan". If such is the case the Chamber believes it an unnecessary luxury to have a Mayor for 130 population spread over three islands.

Section 2 (a).

We strongly recommend that the qualification set forth in our recommendation at Article I, Section 2 (c) be added here.

Section 6 (a).

If this section means that there will be no municipal councilmen and no village commissioners we wholeheartedly support this provision of the Constitution.

ARTICLE VII.

Section 1.

We strongly recommend deleting the words beginning with "is not serving a sentence" on line five thru the words "or less" on line seven and substituting therefor the following:

"Nor should any man who has been convicted of a felony be qualified to vote at any election unless has had his civil rights previously restored to him or unless he has maintained good behavior for five (5) years following the date of his conviction or his release from prison whichever is the later."



## ARTICLE IX. General.

It is obvious that the number of signatures for Initiative, Referendum and Recall is designed to give Rota and Tinian Islands a veto over the voters on Saipan. Whereas, only 51% of the voters are needed for a Referendum to nullify a law; a two-thirds vote is required by the voters of the Commonwealth to enact a law. This is inconsistent and we believe 51% of the electorate should be able to approve an Initiative.

We recommend any referendum, recall or initiative requirements utilize a percentage of the voters voting in the last general election rather than a percentage of those "qualified to vote" or a percentage of those registered to vote in the last general election.

## ARTICLE X.

### Section 4.

The Chamber is strongly opposed to giving any Commonwealth instrumentality the right to issue bonds or other long term public indebtedness instruments for purposes of meeting operating expenses. This section of the Constitution implies that this would be authorized for agencies of the Commonwealth where repayment is solely from the revenues accruing to the agency concerned. We recognize that short term debt (30-60 days) may sometimes be required to meet operating expenses; however long term debt should be authorized only the more expensive fixed public improvements.

## ARTICLE XI.

### Section 5 (c).

The Chamber believes this provision much too restrictive and would estop any potential large investor from being interested in the Northern Marianas. This provision is a very serious impediment to economic development in the Commonwealth and should be deleted in its entirety.

### Section 5 (d).

This section would appear to be in conflict with the Covenant with regard to committed areas to be leased to the U. S. Government.

Section 6 (a).

It is unlikely that an appointing authority could also be expected to be impartial if it also had to exercise removal authority over those it appointed. We recommend that the three (3) trustees be appointed by the Governor and have the Commonwealth trial court in a position to be impartial in case removal action is contested.

ARTICLE XII.

Section 2. Restrictions and Alienation of Land.

~~Beginning with "A spouse by inheritance shall not be considered an acquisition under the Section, and provided further, that..."~~

~~This part of the Section should be deleted.~~

Section 2 also restricts Section 4. It tends to discriminate against future citizens of the Northern Marianas, including those whose ancestry were once full-blooded Northern Marianas descent.

It is recommended that the one-quarter blood line be deleted.

The top line of Page 44, beginning with the word "and was a citizen of the Trust Territory of the Pacific Islands prior to the termination of the Trusteeship with respect to the Commonwealth."

It is recommended that this be deleted since it tends to bar full blooded Chamorros and Carolinians who were born and domiciled in the in the Northern Marianas prior to 1950 and who have since taken up American citizenship.

An expression of concern is made on the 51% requirement for investment in the Northern Marianas by outside capital. This matter should be reconsidered and reality must be taken into consideration.

ARTICLE XIII.

Section 3.

The Chamber strongly recommends the deletion of this entire Section. Secretarial Order 2969 authorizing the transfer of public land to the Trust Territory Districts had a "hold harmless clause" protecting the localities from claims for past transactions where the U. S. Government and/or the Trust Territory was a party to the transaction. To open this pandora's box at this time at the expense of the Commonwealth treasury could be disastrous to our solvency and not needed in view of the above.

ARTICLE XV.

The Chamber is pleased that Education is provided for in the Constitution. We strongly favor full funding of an elementary and secondary school system capable of U. S. standard accreditation.

ARTICLE XVIII. Constitutional Amendment.

The Chamber believes that in a democratic form of Government 85% of the voters should be able to work their will in constitutional changes. Should the representatives of Rota and Tinian representing only 12.6% of the population at the last census decide to thwart the desires of the majority, 87.4%, the Constitution provides them the legal means to do so.

In conclusion, may we again recognize the monumental task the honorable Delegates to this Constitutional Convention have undertaken and accomplished in a short four weeks. The Members of the Chamber of Commerce and this committee who also worked hard to provide you with meaningful input are hopeful that our recommendations made here today and possibly augmented later will be given your very serious consideration before you complete the final draft. We wish you Godspeed.

Committee on Governmental Relations  
Saipan Chamber of Commerce

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