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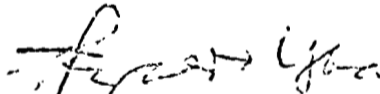
Dear Mr. Willens:

If it is not yet too late, I am attaching herewith my comments on some of the provisions of the draft constitution. I hope that they are of some help to the convention delegates.

As a concerned observer I wish to see the people of the Northern Marianas come up with a good constitution that is not only a source of justice and fairness but also just and fair per se.

I do hope my comments are worth your time, and I wish you and the constitutional convention good luck as you resume and finish the constitution.

Very truly yours,


Reynaldo O. Yana

C O M M E N T S

Article I Section 4 (j)

It seems to me that persons under 18 years of age can find committing crimes an easy thing because this provision protects them in criminal proceedings and takes away any deterrence to crime. We will in effect be training the youth for criminal livelihood because the courts are powerless to enforce criminal laws on minors. On the other hand, age does not necessarily determine maturity or immaturity. The judge upon finding a minor guilty should be more competent to decide whether the juvenile offender is mature enough to serve imprisonment.

Article II Section 2

It is unwise and unnecessary to state the total membership of the senate in view of future changes in population in all the islands of the Marianas.

This constitution should anticipate a time in the future when most of the islands will be heavily populated. I think the provisions of this section would have to be amended to solve such problems.

I suggest that section 2. be rewritten this way:

- (a) The Senate shall be composed of 3 senators from each island municipality. The islands of Rota, Tinian with Aguigan, and Saipan with the islands north of it shall each constitute an island municipality until such time when any or all islands in the Commonwealth shall have been individually created by law into island municipalities. The legislature shall prescribe the requirements and conditions for creating an island municipality, but one of such conditions shall be that an island must have a population of more than one thousand residents.
- (b) A senator, who shall be elected at large in his island municipality except in cases provided for in Section 10 of this article, shall serve a term of four years except that the candidate receiving the third highest number of votes in the first election for senators on each island municipality shall serve a term of two years.
- (c) No person shall be elected a senator unless he is a qualified voter of the Commonwealth, A United States

citizen or national, at least twenty-five years of age, and a resident of the Commonwealth for at least five years immediately preceding his election.

Comments on Section 2(c): The statement "A senator shall be a qualified voter..." can be validly interpreted to mean that if a senator-elect is not a qualified voter, etc., he has the obligation to become one at a later time.

Article II Section 3

Paragraph a is specific. It should be broad enough to cover future cases. Instead of stating the number of members, the formula for which such apportionment was arrived at should have been used. For example: If there were ten thousand people on Saipan, three thousand on Rota, and 2,000 on Tinian, the provision should read like this:

(a) The membership of the House of Representatives shall be composed of representatives from each island municipality, the number of which shall be determined by the respective population of each island municipality. Until such time legislature carries out the provision of Section 4 of this article, the following shall apply:

(1) All island municipality shall elect one representative for every 1000 persons residing therein.

(2) An island municipality having a population of less than 1,000 shall elect one representative notwithstanding the provision of the preceding paragraph.

Article II Section 3 (b) should be rewritten in a similar way as Section 2c should be rewritten.

Article II Section 5 (b)

The provision that reads: "Legislature compliance with the requirements of this subsection is a constitutional responsibility not subject to judicial review" should be amended. This constitution is not superior to the U.S. Constitution or the federal courts. Therefore it can not order the federal courts not to review or deal with cases arising from this paragraph.

I think the phrase "judicial review by Commonwealth courts created by the legislature or by this constitution" should be more appropriate.

Article II Section 6

The idea of a law being enacted by a few members of the legislature is divisive in nature and unheard of in the history of constitutional laws.

The legislature should always act as one body whether it be dealing with legislations of local application. The obvious reason is that they draw their salaries from public funds. While they must represent their constituents, their job is supposed to be to make laws for the entire commonwealth.

Talking about divisiveness, if legislators are going to be busy making local laws for their municipalities, they won't have time to work together for the common good of all. They will then tend to develop sectionalism.

And besides, what's wrong with having a municipal council or a municipal board (perhaps headed by a mayor) whose main job is to make local laws defined by the legislature?

Section 11 Article II

This prohibition doesn't cover a senator who can also introduce and vote on legislation for raising his salary. Every two years the legislature changes, but the term of a senator may not end. The purpose of this kind of prohibition should be to discourage a legislator from using his power to make a law for his own personal benefit. It seems to me that a senator who wants to get a higher salary can introduce a legislation to increase legislators' salaries knowing that in the last 2 years of his term he will be receiving such increase.

It should be clearly stated that the increase shall not apply to any legislator during his term of office in which the increase has been approved.

A similar provision should be included concerning any office created by law during a legislator's term of office. Such provision should preclude him from being appointed to such office.

Article III Section 14

Who can create executive departments? The legislature or the governor? It's best to mention this in the constitution.

Article XI Section 4 (b)

The phrase "Carolinian or a person of Carolinian descent" is ambiguous. As it is written, a person from Caroline Islands who become a resident of the Marianas will fall under that phrase. A more appropriate term is "a Carolinian of Marianas descent" since Marianas descent refers to descendants of Chamorro and Carolinian ancestry who first lived in the Marianas.

Article III Section 7

Succession to governorship should include permanent mental and physical incapability of the governor to perform his duties.

Article III Section 8(b) should be re-worded to mean permanent inability to discharge the duties of his (governor's) office. For instance, if the governor has to stay in a hospital for operation for a period of 4 months, this does not mean that after such time he can not resume to do his gubernatorial duties.

Article XII Section 4

The wisdom of this provision is very questionable. For example, an American child with no Chamorro or Carolinian blood can later on acquire land if adopted by parents of Marianas descent. On the other hand, a person who is 12.5% Northern Marianas Chamorro or Carolinian blood and whose ancestry can even probably be traced to the very first Chamorro or Carolinians who lived on these islands CAN NOT acquire land.

This is simple and plain injustice!

Suggestion: Cancel this entire article and leave the power to regulate the alienation of land to the legislature.

Article XIV Section 2

It is better to leave the entire job of preserving wildlife to the legislature. The legislature can easily find ways to preserve wildlife and can easily amend laws if there are better ways. The constitution is too rigid to be amended for the sake of birds and other animals.