

CONSTITUTIONAL CONVENTION
of the
NORTHERN MARIANA ISLANDS

VERBATIM JOURNAL (TRANSCRIPT)

Forty-First Day
Saturday, November 27, 1976

The Constitutional Convention of the Northern Mariana Islands reconvened in Plenary Session at 9:40 a.m.

The Honorable Lorenzo I. Guerrero, President, presided.

Chairman Benjamin Manglona: I am happy to report that the Committee of the Whole has adopted Article X, regarding "taxation and Finance," and Article XIV, regarding "Natural Resources," as amended, together with the style amendments as proposed by the legal consultants.

Acting Floor Leader Juan Tenorio: I move that the Convention adopt Article X, as amended, on Second and Final Reading.

The motion was seconded.

Motion to adopt Article X on Second and Final Reading was voted on by roll call vote. The vote is as follows:

YES: Delegates David Atalig, Felipe Atalig, Pedro Atalig, Vicente Attao, Luis Benavente, Jose Borja, Olympio Borja, Gregorio Calvo, Antonio Camacho, Magdalena Camacho, Jose Cruz, Pedro Dela Cruz, Juan S. Demapan, Hilario Diaz, Benigno Fitial, Lorenzo Guerrero, Henry Hofschneider, Prudencio Manglona, Vicente Manglona, Pedro Igitol, Eateven King, Luis Limes, Jose Mafnas, Vicente Manglona, David Maratita, Pedro Ogo, Francisco Palacios, Oscar Rasa, Leon Taisacan, Juan Tenorio, Manuel Tenorio, Jesus Villagomez and Ramon Villagomez.
(33 votes)

NO: Delegate Joaquin Torres. (1 vote)

The motion carried.

Article X, adopted by the Convention on Second and Final Reading, is as follows:

ARTICLE X: TAXATION AND PUBLIC FINANCE

Section 1: Public Purpose. A tax may not be levied and an appropriation of public money may not be made, directly or indirectly, except for a public purpose.

Section 2: Report on Tax Exemptions. Every five years the governor shall report to the legislature on the social, fiscal and economic impact of tax exemptions provided by law. The report may include recommendations by the governor on tax exemption policy of laws.

Section 3: Public Debt Authorization. Public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature.

Section: Public Debt Limitation. Public indebtedness other than bonds or other obligations of the government payable solely from the revenues derived from a public improvement or undertaking may not be authorized in excess of ten percent of the aggregate assessed valuation of the real property within the Commonwealth. Public indebtedness may not be authorized for operating expenses of the Commonwealth government or its political subdivisions.

Floor Leader Rasa: I move that the Convention adopt Article XIV, regarding "Natural Resources," on Second and Final Reading, as amended.

Motion to adopt Article XIV on Second and Final Reading was voted on by roll call vote. The vote is as follows:

YES: Delegates David Atalig, Felipe Atalig, Pedro Atalig, Vicente Attao, Luis Benavente, Jose Borja, Olympio Borja, Gregorio Calvo, Antonio Camacho, Magdalena Camacho, Jose Cruz, Juan S. Demapan, Hilario Diaz, Benigno Fitial, Lorenzo Guerrero, Henry Hofschneider, Pedro Igitol, Luis Limes, Jose Mafnas, Benjamin Manglona, Prudencio Manglona, Vicente Manglona, Francisco Palacios, Oscar Rasa, Leon Taisacan, Juan Tenorio, Manuel Tenorio, Jesus Villagomez and Ramon Villagomez. (29 votes)

NO: Delegates Pedro Dela Cruz, Esteven King, David Maratitia and Joaquin Torres. (4 votes)

ASBTAIN: Delegate Pedro Ogo. (1 vote)

(As per earlier order of the President, the 1 abstention was counted as affirmative vote, making the vote 30 "yes" and 4 "no.")

The motion carried.

Article XIV, adopted by the Convention on Second and Final Reading, is as follows:

ARTICLE XIV: NATURAL RESOURCES

Section 1: Marine Resources. The marine resources in waters off the coast of the Commonwealth over which the Commonwealth now or hereafter may have any jurisdiction under United States law shall be managed, controlled, protected and preserved by the legislature for the benefit of the people.

Section 2: Uninhabited Islands. The island of Managaha shall be maintained as an uninhabited place and used only for cultural and recreational purposes. The islands of Sariguan and Maug and other islands specified by law shall be maintained as uninhabited places and used only for preservation of bird, fish, wildlife and plant species except that the legislature may substitute in place of Sariguan another island as well suited for that purpose.

Section 3: Places and Things of Cultural and Historical Significance. Places of importance to the culture, traditions and history of the people of the Northern Mariana Islands shall be protected and preserved and public access to these places shall be maintained as provided by law. Artifacts and other things of cultural or historical significance shall be protected, preserved and maintained in the Commonwealth as provided by law.

President Guerrero: We will now begin with our Order of Business for the 41st Day.

Floor Leader Rasa: I move we suspend items 1 and 2 on the Order of Business and go to item 3, "Roll Call." I further move that after roll call we suspend items 4, 5, 6 and 7 and go to item 8, "Second and Final Reading of Recommendations."

The motion was seconded and carried.

The Convention Secretary called the roll. There were 35 Delegates present. Delegates Felix Ayuyu, Carlos Camacho, Daniel Castro and Herman Guerrero were excused. No Delegates were absent.

(8) SECOND AND FINAL READING OF RECOMMENDATIONS

Floor Leader Rasa: I move the Convention resolve itself into the Committee of the Whole in order to discuss:

Article V, regarding "Washington Representative"
Article VII, regarding "Eligibility to Vote"
Article VIII, regarding "Election Procedures"
Article IV, regarding "Judicial Branch"

The motion was seconded and carried.

President Guerrero: I would like to appoint Delegate Francisco T. Palacios to preside over the Committee of the Whole for today.

The Convention resolved into the Committee of the Whole at 9:55 a.m.

The Convention reconvened in Plenary Session at 4:31 p.m.

Chairman Francisco Palacios: The Committee of the Whole as adopted Articles VII, VIII and IV without amendment and Article V with amendment.

Acting Floor Leader Juan Tenorio: I move that the Convention adopt Article V, regarding "Washington Representative," as amended by the Committee of the Whole on Second and Final Reading.

Delegate Pedro Dela Cruz: Does this include the consultant's style changes for consistency and clarity?

President Guerrero: Yes, the consensus of the Convention is to receive the report inclusive on all style changes.

Motion to adopt Article V on Second and Final Reading was seconded and carried unanimously by roll call vote. (32 affirmative votes)

Article V, adopted by the Convention on Second and Final Reading, is as follows:

ARTICLE V: REPRESENTATION IN THE UNITED STATES

Section 1: Representative to the United States. A representative to the United States shall be elected to represent the Commonwealth in the United States and to perform those related duties provided by law. The governor shall provide a certification of selection promptly to the United States Department of State and to the representative.

Section 2: Term of Office. The term office of the representative shall be two years unless it is increased to no more than four years by initiative under Article IX, section 1.

Section 3: Qualifications. The representative shall be qualified to vote in the Commonwealth, a citizen of the United States, at least twenty-five years of age, and a resident and domiciliary of the Commonwealth for at least seven years immediately preceding the date on which the representative takes office. A different period of residence and domicile may be provided by law. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Section 4: Annual Report. The representative shall submit a written report by the second Monday of January of each year to the governor and legislature on the representative's official activities during the preceding year and matters requiring the attention of the government or people of the Commonwealth.

Section 5: Compensation. The representative shall receive an annual salary and reasonable allowances for expenses provided by law. The salary may not be changed during a term of office.

Section 6: Vacancy. In the event of a vacancy in the office of representative to the United States, the governor shall appoint a successor with the advice and consent of the legislature.

Section 7: Impeachment. The representative is subject to impeachment as provided in article II, section 8, of this Constitution for treason, commission of a felony, corruption or neglect of duty.

Acting Floor Leader Juan Tenorio: I move that the Convention adopt Article VII, regarding "Eligibility to Vote," as amended by the recommended style changes.

The motion was seconded.

Delegato Ramon Villagomez: I move that the Convention adopt proposed amendment no. 87 to Article VII.

The motion was seconded.

Delegate Pedro Atalig: If a person is serving a jail term for malicious mischief, assault and battery, petty theft, or simple misdemeanors, would the police be required to take that person to the polls to vote in an election?

Delegate Ramon Villagomez: As stated this morning, the language does not require that these persons be taken to the polls to vote.

Chairman Jose Mafnas: If it is stated in the Constitution that they can vote, I want the record to reflect that the Chief of Police will take them to the polls to vote.

Delegate Pedro Atalig: I cannot see the rationale for differentiating these jails terms. I still express my opposition.

Motion to adopt amendment no. 87 to Article VII was voted on by roll call vote.

Motion to adopt amendment no. 87 carried.

Motion to adopt Article VII, as amended by amendment no. 87, inclusive of the recommended style changes, on Second and Final Reading was voted on by roll call vote. The vote is as follows:

YES: Delegate Felipe Atalig, Vicente Attao, Luis Benavente, Pedro Dela Cruz, Hilaria Diaz, Benigno Fitial, Lorenzo Guerrero, Henry Hofschneider, Pedro Igitol, Esteven King, Luis Limes, Jose Mafnas, Benjamin Manglona, Prudencio Manglona, Vicente Manglona, David Maratita, Francisco Palacios, Oscar Rasa, Leon Taisacan, Juan Tenorio, Manuel Tenorio, Joaquín Torres, Jesus Villagomez and Ramon Villagomez. (24 votes)

NO: Delegates David Atalig, Pedro Atalig, Felix Ayuyu, Jose Borja, Gregorio Calvo, Antonio Camacho, Magdalena Camacho and Juan S. Demapan. (8 votes)

ABSTAIN: Delegate Pedro Ogo (1 vote)

(As per an earlier ruling of the President, the one abstention was counted as an affirmative vote. The final vote was 25 "yes" and 8 "nos.")

The motion carried.

Article VII, as adopted on Second and Final Reading, is as follows:

ARTICLE VII: ELIGIBILITY TO VOTE

Section 1: Qualifications of Voters. A person is eligible to vote who, on the date of the election, is eighteen years of age or older, is domiciled in the Commonwealth, is a resident of the Commonwealth, and has resided in the Commonwealth for a period of time provided by law, is not serving a sentence for a felony, has not been found by a court to be of unsound mind, and is either a citizen or national of the United States. The legislature may require that persons eligible to vote be citizens of the United States.

Section 2: Prohibition of Literacy Requirement. A person may not be denied the right to vote because that person is unable to read or write.

Section 3: Domicile and Residence. The legislature shall implement section 1 by providing the criteria by which domicile and residence shall be determined for voting purposes and specifying the length of residence within the Commonwealth that shall be required.

Chairman Francisco Palacios: I move that the Convention adopt Article VIII, regarding "Elections," as amended by the recommended style changes.

The motion was seconded.

Motion to adopt Article VIII on Second and Final Reading was voted on by roll call vote. The motion carried unanimously. (32 affirmative votes)

Article VIII, as adopted by the Convention on Second and Final Reading is as follows:

ARTICLE VIII: ELECTIONS

Section 1: Regular General Election. The regular general election of the Commonwealth shall be held on the first Sunday in November.

Section 2: Other Elections. Other elections may be held as provided by law.

Section 3: Election Procedures. The legislature may provide for the registration of voters, nomination of candidates, absentee voting, secrecy in voting, administration of elections, resolution of election contests, and other matters with respect to election procedures.

Section 4: Taking Office After Elections. Officers elected at the regular general election shall take office on the second Monday in January of the year following the year in which the election was held.

Chairman Francisco Palacios: I move that the Convention adopt Article IV, regarding "Judicial Branch," on Second and Final Reading as amended by the recommended style changes.

The motion was seconded.

Motion to adopt Article IV on Second and Final Reading was voted on by roll call vote. The motion carried unanimously. (31 affirmative votes and 1 abstention, the abstention being ruled earlier to be counted as an affirmative vote, making the count 33 "yes.")

Article IV, as adopted on Second and Final Reading, is as follows:

ARTICLE IV: JUDICIAL BRANCH

Section 1: Judicial Power. The judicial power of the Commonwealth shall be vested in a judiciary of the Northern Mariana Islands which shall include those trial and appeals courts established by the legislature under this article.

Section 2: Commonwealth Trial Court. The legislature shall establish a Commonwealth trial court. This court has original jurisdiction over actions involving land in the Commonwealth and other civil actions except those in which the value of the matter in controversy exceeds five thousand dollars. The court also has original jurisdiction over criminal actions except those in which the defendant, if convicted, may be fined an amount that exceeds five thousand dollars or imprisoned for a term that exceeds five years. For at least five years after the establishment of the court, actions involving land shall be considered by a special division of the court. At least one full-time judge of the court shall be assigned to Rota and at least one full-time judge of the court shall be assigned to Tinian. The legislature may vest additional civil and criminal jurisdiction in the court after this Constitution has been in effect for at least five years or at an earlier date if no United States District Court for the Northern Mariana Islands is available under Article IV, section 402(b), of the Covenant to exercise jurisdiction over causes not vested in the Commonwealth trial court.

Section 3: Commonwealth Appeals Court. The legislature may establish a Commonwealth appeals court to hear those appeals from

Judgments and orders of the Commonwealth trial court ~~as~~ are required or permitted by law after this Constitution has been in effect for at least five years or at an earlier date if no United States District Court for the Northern Mariana Islands is available under Article IV, section 402(c), of the Covenant to hear these appeals.

Section 4: Appointment and Qualifications. The governor shall appoint judges of the Commonwealth courts with the advice and consent of the senate. The term of office shall be six years and may be increased by law to not more than twelve years for judges who have served at least one term. A judge shall be at least thirty years of age, a citizen or national of the United States and possess other qualifications provided by law.

Section 5: Compensation. The compensation of judges shall be provided by law. The salary of a judge may not be decreased during the term of office.

Section 6: Sanctions. Judges are subject to impeachment as provided in Article II, section 8, of this Constitution for treason, commission of a felony, corruption or neglect of duty. The legislature shall establish an advisory commission on the judiciary whose members include lawyers and representatives of the public. Upon recommendation of the advisory commission, the governor may remove, suspend or otherwise sanction a judge for illegal or improper conduct.

Section 7: Limitations on Activities of Judges. A full-time judge may not hold another compensated government position or engage in the practice of law. A judge may not make a direct or indirect financial contribution to a political organization or candidate, hold an executive office in a political organization, participate in a political campaign, or become a candidate for elective public office without resigning judicial office at least six months before becoming a candidate.

Section 8: Rule-making Power. The judiciary of the Commonwealth may propose rules governing civil and criminal procedure, judicial ethics, admission to and governance of the bar of the Commonwealth, and other matters of judicial administration. A proposed rule shall be submitted promptly to the legislature and shall become effective sixty days after submission unless disapproved by a majority of the members of either house of the legislature. Until rules are established under this section, the rules of the High Court of the Trust Territory of the Pacific Islands shall apply in the Commonwealth courts.

President Guerrero: We have completed adoption of the items on our Order of Business for this morning, but there is now a supplemental Order for this afternoon's session. I would like to ask the cooperation of all the Delegates so we can proceed and consider the items under item 8 on this afternoon's Order of Business. These items are:

Article XI, regarding "Public Lands"
Article XVIII, regarding "Constitutional Amendment"

Floor Leader Raza: I move that the Convention resolve itself into the Committee of the Whole in order to consider the items calendared under Second and Final Reading on this afternoon's Order of Business.

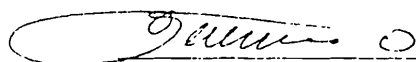
The motion was seconded and carried.

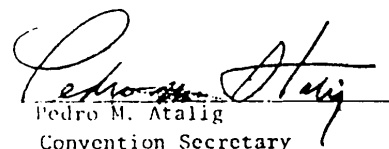
President Guerrero: I appoint Delegate Jesus Villagomez to preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 5:35 p.m.

The Convention recessed while in the Committee of the Whole. Recess was called at 7:00 p.m., to continue until 9:00 a.m. the following morning.

APPROVED:


Lorenzo I. Guerrero, President
Northern Marianas Constitutional
Convention


Pedro M. Atalig
Convention Secretary