

CONSTITUTIONAL CONVENTION
of the
NORTHERN MARIANA ISLANDS

VERBATIM JOURNAL (TRANSCRIPT)

FORTY-THIRD DAY
Monday, November 29, 1976

(1) The Constitutional Convention of the Northern Mariana Islands was called to order at 10:20 a.m.

The Honorable Erwin D. Canham, Resident Commissioner, presented each Delegate with an election certificate.

(2) A moment of silent prayer was observed.

(3) The Convention Secretary called the roll. There were 37 Delegates present. Delegates Jose R. Cruz and Carlos S. Canacho were absent. No Delegates were excused. A quorum was present.

(Secretary Atalig reported that Delegate Cruz had asked to be excused. Floor Leader Raga moved that those Delegates not in attendance be excused. The motion was seconded and defeated.)

(4) ADOPTION OF THE JOURNAL

Floor Leader Raga: Mr. President, I move for the adoption of the Summary Journals of Days 40 and 41.

The motion was seconded and carried.

Floor Leader Raga: Mr. President, I move for the adoption of Verbatim Transcripts for Days 25, 26, 27, 28 and 29.

The motion was seconded and carried.

(5) COMMUNICATIONS - None.

(6) COMMITTEE REPORTS - None.

(7) INTRODUCTION AND FIRST READING OF COMMITTEE RECOMMENDATIONS - None.

(8) SECOND AND FINAL READING OF RECOMMENDATIONS

Calendared: Article IX, regarding "Initiative, Referendum & Recall"
Article XII, regarding "Land Alienation"
Preamble

Floor Leader Raga: Mr. President, I move that the Convention resolve into the Committee of the Whole in order to consider the items listed under item eight on the calendar.

The motion was seconded and carried.

President Guerrero appointed Delegate David Maratita to preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 10:35 a.m.

The Convention reconvened in Plenary Session at 3:33 p.m.

President Guerrero: The Convention will now come back to order. I have been informed that it will require a short period of time for the Articles as amended by the Committee of the Whole to be prepared and distributed for discussion on Second Reading.

Delegate Ramon Villagomez: Because of the delay required, I move that the Convention recess until seven o'clock this evening.

The motion was seconded.

Chairman O. T. Borja: Mr. President, before we recess, may I ask that members of your Special Committee meet right after this session. That's the one that's composed of Chairman Mafnas, Chairman Pitiaf, Delegate Ramon Villagomez, Delegate J.R. Cruz and First Vice President Manglona, Delegate J.P. Tenorio and Delegate Torres.

Delegate Vicente Manglona: Mr. President, privilege. Since Delegate Cruz is not available, I would like to ask for someone from Tinian to be appointed in his place.

President Guerrero: In that case I will appoint the Second Vice President from Tinian to take the place of Delegate Cruz.

Also, at this time I would like to announce that the Style Committee for the Convention will consist of six members. I appoint the following members: Delegates M. Camacho, P. Atalig, J. Villagomez, H. Guerrero, M. Tenorio and L. Limes.

Delegate Jesus Villagomez: May I ask what the Style Committee will do?

President Guerrero: The Committee will select the style for lettering of our Constitution and what documents should be produced by this Convention, et cetera. I think the Committee should meet tomorrow at 8:30 in the morning, if that's alright with everyone.

Delegate Limes: Privilege. If there anyone appointed from Tinian?

President Guerrero: I don't think that will be required since this isn't concerned with the various municipalities. It is concerned only with style.

Motion to recess carried.

The Convention recessed at 3:47 p.m.

RECESS

The Convention reconvened at 7:35 p.m.

Chairman Maratita: Mr. President, your Committee of the Whole in its meeting this afternoon deliberated on Article IX, regarding "Initiative, Referendum and Recall," Article XII, regarding "Land Alienation," and the Preamble. Article IX was adopted with amendment, Article XII was adopted without amendment and the Preamble was adopted as amended by proposed amendment number 69.

Mr. President, I move that Article IX, as amended by the Committee of the Whole, be adopted. That should also include the changes as recommended for style.

The motion was seconded.

Delegate Juan S. Demapan: Mr. President, I move that proposed amendment number 91 be adopted.

The motion was seconded.

(The Plenary Session was conducted in Chumorro from 7:40 p.m. until 7:49 p.m.)

Delegate Ramon Villagomez: Under the original petition on "Initiative" do the municipalities have the mechanism for making their own initiative?

Delegate J.S. Demapan: Yes.

Delegate Ramon Villagomez: And what is the difference between that mechanism and the mechanism proposed by the amendment?

Delegate Juan S. Demapan: (Chamorro)

Delegate Ramon Villagomez: So the only argument you have against allowing a Commonwealth initiative is that the common people of Saipan have never been to Tinian?

Delegate Juan S. Demapan: (Chamorro)

Delegate Ramon Villagomez: I'm not sure that it is a good argument to prevent Commonwealth initiative because the common people have never been to Tinian and Rota. I think with the transportation, communication and education we are developing....we may have trouble now but we are developing a Constitution for the future. I think to prevent Commonwealth initiative would be defeating half the purpose of this section. I think it is important to have the general public of the Commonwealth be able to do this and they should be given this opportunity. The fact that the opportunity is there encourages the legislature to enact those laws needed by the people.

Delegate Hofschneider: Question. When you say Commonwealth in general, do you mean all the municipalities?

Delegate Ramon Villagomez: Yes, I mean all the people of all the municipalities. When I talk about the Commonwealth I talk about all the people of the Commonwealth in each municipality looking at one question. Then they all vote on that one question. Then you determine all the votes from all the municipalities.

Chairman Mafnas: I want to ask a question of Delegate Demapan. If the legislature is not responsive to the needs of the general public, what remedy or mechanism is there extended the public to meet these needs?

Delegate Juan S. Demapan: (Chamorro)

Chairman Mafnas: No, I'm talking about the Commonwealth general public.

Delegate Juan S. Demapan: (Chamorro)

Chairman Mafnas: Just in general, if the legislature refuses to enact a law that would affect the whole Commonwealth and the legislature is not responsive to the desire of the general public, what mechanism is there extended to the public to rectify or remedy the situation?

Secretary Alalig: You just don't elect the rascals.

Chairman Mafnas: No, no, no. This is before the four-year term expires or the three-year term expires.

Secretary Alalig: That is still a short time. You just throw the rascals out and don't re-elect them.

Chairman Mafnas: Mr. President, I think the previous speaker has misunderstood my question. I realize the check and balance is there for the coming election, however, I am talking about the period these people are sitting on the needs of the general public and are not responsive.

Delegate Juan S. Demapan: Let us take the question from another point of reference. Say that the legislators made a law that is not good for the public. I think that is the same question.

Chairman Mafnas: No, it is not. I am talking about the general public wants this law and yet the legislature will not enact such law.

Delegate Juan S. Demapan: So what's the difference in saying that the legislature enacted a law that the people didn't like?

Chairman Mafnas: That's provided in the Constitution and that's "referendum."

Delegate Juan S. Demapan: Right.

Chairman Mafnas: But I'm talking about the people initiating a law. We have provided a mechanism for your question--and that is "referendum."

Secretary Atalig: If you look at subsection (d), it does not specify a special election so you would have to wait until the next general election to put your legislation on the ballot. I think at that time you could throw these rascals out.

Chairman Mafnas: That is not the question, Delegate Atalig. The question is: The people need this law right now. They cannot wait until the next election.

Secretary Atalig: Who are the people?

Chairman Mafnas: The general public.

Secretary Atalig: How do you determine what group of people want this particular law? It's actually a special interest group, isn't it?

Chairman Mafnas: No, I stated my point and my quorum. I am not talking about a special interest group. I still have not been answered, Mr. President.

President Guerrero: Is there someone that can answer that question posed by Chairman Mafnas?

Chairman Fitial: There is none.

Chairman Maratita: Mr. President, Article IX, "Initiative, Referendum and Recall," under section 1 as was adopted by the Committee of the Whole....I think this will suffice the intention of a municipality when they want to enact a local law. Under those provisions they may do so. This proposed amendment 91 would now limit only initiative on local laws and not Commonwealth laws. If the legislature is not responsive to the needs of the people of the Commonwealth, and if the people of the Commonwealth desired to correct the inaction of the legislature, they may not do so because it would not be allowed by proposed amendment number 91. Mr. President, I think the proposed amendment 91 would only be good for local laws, but it would not be good for Commonwealth laws that the people want to see enacted through the initiative process. I believe, Mr. President and fellow Delegates, that this proposed amendment 91 would not suffice in our desire in this Convention.

Delegate Pedro Dela Cruz: A question to Delegate Demapan, please, Mr. President. With your proposed amendment, do I take it to mean that the people do not understand the mechanism of initiative?

Delegate Juan S. Demapan: The answer is both "yes" and "no." When it comes up on a local matter like here on Saipan, of course, I have confidence in our people and how they cast their vote. When it comes to Rota, I don't want the majority of the people to determine what is good and what is bad for Rota.

Delegate Dela Cruz: Delegate Demapan, do you feel the people could not make an intelligent decision through initiative regarding the enactment of comprehensive legislation?

Secretary Atalig: On a comprehensive matter like environmental law or penal code, I don't think the people could make a wise decision. Are we going to put ten pages of legal wording on the ballots for them to look through, read, and make their determination before they vote? Do you mean to tell me that they're going to read that in the voting booth?

Floor Leader Rasa: Mr. President, I move to end debate.

The motion was seconded and carried.

Motion to adopt proposed amendment number 91 was defeated on vote by show of hands.

Delegate Pedro Dela Cruz: Mr. President, I want the record to show I did not vote because I did not get an answer to my question.

President Guerrero: We are still on discussion on Article IX, as amended by the Committee of the Whole.

Floor Leader Rana: I do not have any amendment, but before the article is adopted I would like to pose just one brief question. Section 1(c) provides that an initiative petition shall be submitted to the voters...and then there is a specified number of days...180 days. Then you go to referendum on Section 2(e) and there is no specification for a particular number of days. Why?

Delegate Ramon Villagomez: The answer is that with respect to initiative, subsection (c), there was an amendment made by Delegate Herman Guerrero to provide 180 days. But nobody made any amendment to include a specific number of days on the referendum portion. It was not from the Committee that the 180 days was put in the initiative portion of the article. That was done on First Reading by amendment.

Delegate Francisco T. Palacios: Initiative is 180 days and referendum is the next general election. Maybe the next general election is six months later and in that time we will get ready to take care of it by referendum.

Delegate Jose Borja: The 180 days are just to make sure that the public is being educated on that provision. As far as referendum, I think it is the responsibility of the legislature to defend themselves.

Floor Leader Rana: Mr. President, I think there is need for consistency here. The argument is well taken but, on the other hand, I think 180 days is a long time. We are talking about a six months period. Mr. President, there might be a possibility for a counter-initiative while the initial initiative is under consideration.

Delegate David Atalig: Mr. President, if the legislature has not taken action on a particular measure and the people feel it is a necessary measure, then the legislature could take action on the measure within the 180 days. I disagree with having this provision in the Constitution because it is useless.

Delegate Palacios: The reason for this initiative section is for the people to act when the legislature does not act. You need the 180 days to educate the people and go through with initiative. If, within the 180 days, the legislature enacts the law--that solves the problem of the legislature not acting. That forced the legislature to act and accomplished the purpose.

Floor Leader Rana: Delegate Palacios, would it make any difference if we also specified the number of days under referendum?

Delegate Palacios: I don't think so because referendum is when the legislature has enacted a law and the people want to take it away. You can wait until the next general election. Because if you start that process, in the meantime the legislature could by their own act nullify that law. That will also accomplish the purpose of referendum. That way you give enough time.

President Guerrero: Maybe I could ask our legal counsel to clarify that some. Mr. Willens?

Mr. Willens: Yes, Mr. President, I think it's a small issue but it's worth spending just a few minutes on. The purpose of these time requirements is to prevent an issue from being presented to the people without sufficient time for informed discussion and debate. There is a need for some time before the people consider an initiative petition because it would involve a new law which might never have been considered before and which might have been very controversial. The 180 days was included to make certain that an initiative petition could not be presented a week or even two weeks before a regular general election and then--whammo--there is a regular general election on it. For all you know, then you could have a stupid law passed by the people because there hadn't been time for the opposition to develop or some informed discussion. That's why 180 days was proposed. I, personally, think that it is too long. I think that 60 to 90 days would be sufficient given the small size of your community and the extent to which you are politically sophisticated. But, in any event, there is a similar need for the referendum provision. Under Section 2(e), as it reads, the attorney general would have to submit a referendum petition to the people even if it came up a week or ten days before the next

regular general election. And I don't think we want that. I would recommend for section 2(c) that you insert a reasonable time limitation of 30 or 60 days to make certain that that doesn't happen. You do not need as much time for a referendum as you do for initiative because a referendum deals with a law that has already been passed, is in written form, has been published, has presumably gotten some publicity and you do not have the same need for education of the public as you have with an initiative. But I do think that the thought is a good one to insert some kind of time limitation in 2(c)--30 to 60 days would be good. And I would suggest to you, although not very strongly, that maybe 180 days is a little bit too long and you might want to reduce that.

Delegate Ogo: Point of information. Mr. President, on section (d). If you look at it on your original, in the Committee of the Whole we did not change 2/3 by passing a local law, yet in the new amendment they changed that to a majority. 2/3 is changed to a majority on local law. That's on the second sentence down.

Delegate Ramon Villagomez: Mr. President, this morning we decided to eliminate "each of two municipalities" and to put just "Commonwealth." In the change for style and consistency that we have before us now, "each of two municipalities" is put back. That's on the second sentence. And page 2, section (d), line 3 where it says "votes cast." That is supposed to be "registered voters." It's just typographical. And on line 7 there are two mistakes. Where it says "majority" is supposed to be "three-fourths" and where it says "votes cast" it is supposed to be "registered voters." And "two-thirds" where it says "majority." That was the decision made this morning.

Floor Leader Rasa: We have still deviated from the issue I was posing. Now we have heard the recommendation by the consultant and I think we also want to see that in a referendum this would not happen in a week's time. So we should at least insert the number of days. If there is no objection, Mr. President, I have no written amendment but I would like to move to suspend Rule 47.

The motion was seconded and there was no objection from the floor.

President Guerrero: There being no objection, Rule 47 is hereby temporarily suspended.

Floor Leader Rasa: Mr. President, I would like to see that under subsection (c) under referendum, the number of days should be 60 days. And I would like to go back to initiative and insert 90 days. I so move.

The motion was seconded.

Delegate Olympio T. Borja: I would like to further amend. On the referendum portion, a really sharp politician could wait until just 90 days before the elections. I would ask the mover to reduce that to 30 days instead of 60?

Floor Leader Rasa: I have no objection to amending my motion.

President Guerrero: So why don't we take that one step at a time. Mr. Floor Leader, could you restate your motion now?

Floor Leader Rasa: Section 1, subsection (c), second page, second sentence, delete 180 days and insert 90 days. I so move.

The motion was seconded and carried.

Floor Leader Rasa: On section 2, subsection (c), find any kind of phrasing as long the number of days is 30 days. I so move.

The motion was seconded.

President Guerrero: I think our legal counsel has the wording for it.

Mr. Willens: Follow the same language and insert this phrase at the end of subsection (c): "that if held at least thirty days from the date the petition has been certified by the attorney general."

Delegate Ogo: Point of clarification. Are we voting section by section?

President Guerrero: We are voting now on section 2, yes. The amendments to section 2 and section 1 on the number of days.

Motion to amend Article IX, Sections 1 and 2, was carried by vote by show of hands.

Delegate Limes: (Chamorro)

President Guerrero: We are in the Plenary but vote by show of hands is sufficient on the amendment. We're not taking the final vote on the entire article.

Delegate Limes: (Chamorro)

President Guerrero: (Chamorro)

Delegate Vicente Manglona: Mr. President, I move to adopt proposed amendment number 92.

The motion was seconded.

Delegate Pedro Dela Cruz: Move to end debate.

The motion was seconded and carried.

Motion to adopt proposed amendment number 92 carried by show of hands.

Secretary Atalig: Mr. President, I move to adopt proposed amendment 93.

The motion was seconded.

Secretary Atalig: Mr. President, I would like this body to adopt this provision on recall. I think it would satisfy a lot. I think the legislature should be given the opportunity to write their own code of ethics, their own grounds for removal of public officials. These would be applicable to the mayor, to the governor, the lieutenant governor and the legislature.

Delegate Juan S. Donnan: Mr. President, I am in favor of this amendment.

Delegate Hofschneider: Mr. President, I am afraid if we pass this to have the legislators specify grounds for recall, they might provide only very limited grounds that would never exist.

Delegate Olympio T. Borja: Mr. President, I think the proviso can be written to give cause without political reasons.

Delegate Manuel Tenorio: I wish to register my reservations to this particular provision, Mr. President. We are trying to give the very people that will be subject to recall the power to make the law that will provide the grounds for recall. It could be very dangerous, Mr. President. I do not believe that the legislature can come up with appropriate measures to hear cases on the various departments and their divisions. I think there's a conflict of interest right there. I think the legislature cannot come up with the provision to handle themselves.

Delegate Calvo: Mr. President, I am opposed to this because they could be lenient on themselves in the legislature. They could make the provisions of practice very high on the government, the other branches.

Chairman Atalig: Mr. President, I wish to speak in very firm opposition to this amendment offered by our Secretary from Rota and the Delegate from Saipan. Mr. President, the passage of this amendment number 93 would be disastrous to the people of the Northern Mariana Islands. I do not know exactly what prompted the two gentlemen to even make a joke of this amendment and so, Mr. President, I move to end debate.

The motion was seconded.

President Guerrero: The next speaker on my list is Delegate Fitiaf.

Chairman Fitiaf: Thank you for recognizing me, Mr. President. It is a privilege.

President Guerrero: State your privilege, if you will, please.

Chairman Fitiaf: I thought you were going to recognize the whole world before you recognized me, Mr. President. That is my privilege, thank you.

President Guerrero: Is that the only question you have to ask?

Chairman Fitiaf: Yes.

Delegate Jose Borja: I am in support of this amendment for the sole reason that we have initiative where if the people do not agree with what the legislators provide for recall, I think we can move through initiative. I think that's what we want. That way we can trust our legislature.

Chairman Mafnas: As you will recall, this afternoon I opposed this section because I am in agreement with what Delegate Tenorio has stated to the Convention--that we are giving the same people the opportunity to come out with the several grounds that they will be subjected to recall. I agree with Delegate Hofschneider that this Convention is not capable of setting the grounds. My question is this: If this Convention is not capable of setting the grounds and if we are afraid of the legislature providing the grounds, are we going to allow John Doe to set the grounds? A citizen to set the grounds that could completely destroy the reputation and integrity of an elected official.

President Guerrero: Is that a question?

Chairman Mafnas: That is a question.

Secretary Atalig: I would like to ask this body whether they distrust Senator Olympio T. Borja, Senator Herman Guerrero, Senator.....

"Point of order" was called by several Delegates.

Secretary Atalig: I trust our legislators.

Chairman Fitiaf: I can answer the question. I don't think John Doe Citizen would have the intention to destroy as stated by Chairman Mafnas.

President Guerrero: Does that answer the question, Chairman Mafnas?

Chairman Mafnas: No, Mr. President. This body is intelligent enough to come up with reasonable enough grounds for recalling an elected official. I also believe that during this session we always state after the Convention that "I have confidence in my legislators." Now it is just the opposite and we are not confident that our legislature should be trusted. So who should be trusted? A citizen that asks you for direction and upon refusing can initiate and can instigate 40% of the voters to recall your position?

Delegate Ramon Villagomez: There are two questions that I see. The first one is when do we trust and when do we mistrust our legislature. I think this Convention will agree that there are certain aspects of life where you can place trust on a group of individuals--a group of people. And then there are also aspects of life which are very touchy, which create conflicts of interest which will cause you to believe that the kind of people in whom you have placed your trust might be questioned by another group of people. Now, as to the other question--whether to allow John Doe Citizen. When we don't give the legislature the responsibility to state the grounds and when we say we cannot as a group designate the grounds, what we are doing is letting history determine what are the grounds. When a person does something that looks inappropriate to the public, the public will try to make the decision whether use of the public forum, the use of the courts, or interpretation by the courts and the lawyers determine whether that ground is proper. You are then giving it to the entire system. The system of the legislature, the system of the voters, the system of the judiciary to determine at that time in history--the time when a person has done something which the public feels may not be appropriate. We are not giving

it to a person on the streets, but we are giving it to the time and place in which it happened and all the history which has been built up by the government.

Delegate Limes: Mr. President, the capability we have here, we could list down all of the... (Chamorro). The question here is whether we are giving our people the right to exercise this recall. It is not up to us to determine whether or not we should put down what are the grounds.

Floor Leader Kasa: Mr. President, I would have to be repetitious. I think it is necessary that I repeat the arguments that I posed during the Committee of the Whole in opposing this particular provision in its entirety. However, I would like to speak with regards this proposed amendment. Mr. President and fellow Delegates, the rights of individuals are not absolute--they are relative. The Congress or the members of the legislature are considered to be totally inactive. We have provided the mechanism to see that the people would have the right in order to initiate laws. In the proposed amendment...if we fail to pass this proposed amendment this would give total rights to every man on the street to determine what is ground and what is groundless. I stated this afternoon that the very basic concept of a recall is so much related to the concept of initiative. This would actually strengthen the possibility where politics is maximized to the extent where it personalizes what you like and what you don't like. So my mere refusing to say "hello" to John Doe Citizen might constitute a ground for my being removed from that office. I want the Journal to be clear on that because I am serious about this. We have seen the nature of partisan politics and how it burdens in the Marianas. Fellow Delegates, rights are not rights in the absolute sense. You have the right to light a fire, to burn a house, but you don't have the right to kill those people. You have the right but you are going to get convicted for doing it. So these rights are relative. What we are trying to do over here is that we give the people....the people are not in a position at all times to know what is going on in the government. Mere misleading information, a mere newspaper man can lead the people into revolution. We have seen how the newspaper controls policymakers yet they are not as objective as other people who have totally and completely studied issues before them. Mr. President, the proposed amendment would mandate the legislature to provide grounds--and I mean reasonable grounds--for these people to be recalled. My failure to say "good morning" is not enough ground for you to initiate and instigate a petition to have me pushed out from public office. I don't know what else to say, Mr. President and fellow Delegates, but I have to repeat myself and say that freedom is relative and all these rights are relative. They are not absolute. We have to control these rights and see that they are practiced with the maximum of reasonableness. We cannot allow anybody in the street to have these rights because these rights abused would constitute tyranny of the innocent majority. I would like to request that we pass this and I move to end debate.

Delegate King: Mr. President, I totally support this amendment. It would give full participation between the people and the legislature. It is a proper procedure to go into our Constitution.

Delegate Palacios: Mr. President, I support recall and I support this amendment. I have been in contact with the legislature for a long time. I know there are racials but my honest opinion is that the majority of the people in the legislature I have associated with are decent people, fair-enough people. If we pass this amendment and the legislature places the groundrules for what are the things for recall, I believe they will be a felony and other serious matters that they deserve to take that bad apple out from among themselves. Because if they keep the bad apple, other people will look bad, too. Therefore, in this particular instance, I have enough confidence that the legislature will be reasonable to set forth the rules for recall. On the other hand, if you don't allow the legislature to put certain rules or enact them for recall, I think they can be harassed--and I don't think that is what we want. Our recall purpose is to get rid of bad people. I think this amendment will be alright.

Delegate Castro: (Chamorro)

Delegate Palacios: (Chamorro) The majority of the people in the legislature are fair.

Delegate Castro: (Chamorro)

Delegate Palacios: (Chamorro)

Delegate Ogo: If the people are ready to initiate recall and as yet the legislature has not come up with criteria as to what does and what does not constitute grounds for recall, then how would this take place. Does it mean under this section that if the legislature does not come up with the grounds, we have to wait?

Delegate Jesus Villagomez: I have a very good answer. If we were to adopt this amendment, we might as well throw out recall.

Floor Leader Rasan: I don't think the legislature is stupid enough to not come up with the grounds.

Delegate Ramon Villagomez: If the legislature does not come up with a list of grounds then, naturally, the people cannot recall.

Mr. Willens: If I wanted to recall a public official and if the amendment was adopted and the legislature had not acted, I would go to court and say that I was entitled to recall. Then I would not have to state grounds because this constitutional provision requires me only to state those grounds for recall as specified by law. If the legislature has not acted then I don't have to do that and, therefore, I would not have to state any grounds. There would be no grounds as provided by law, therefore, I have no requirement to state grounds because there are no grounds provided by law. Because I could not do so.

Delegate Ramon Villagomez: If you don't have grounds then you cannot recall.

Mr. Willens: It doesn't say that. It says you shall state the grounds as provided by law.

Delegate Ramon Villagomez: Are you saying that you can recall a person when you don't have any grounds?

Mr. Willens: You could say whatever grounds you wanted or state no grounds at all. Because this provision would not be applicable.

Delegate Antonio Camacho: Mr. President, I think the mainstream of arguments against it is because we are basing our thoughts on the fact that John Doe Citizen is not educated enough to.....

Floor Leader Rasan: I didn't say that. May the record reflect that I did not say that he is not educated.

Delegate Antonio Camacho: I believe the general man will be reasonable enough to come up a decision when to recall a legislator who is not doing his job.

Delegate Igitol: I share my agreement with Delegate Dr. Palacios that all the legislators are not crooks. But, Mr. President, if those bad apples are not taken out from the good apples, those good apples would become bad, too.

Delegate Juan P. Tenorio: I would just like to add the thought that if the legislature does not hurry up and provide the grounds, then would they not be in worse shape?

Mr. Willens: That's what I'm saying. So the amendment would provide a useful purpose because it would provide the legislature with incentive to dictate reasonable grounds. I think it would be a reasonable legal argument that if they failed to provide grounds by law, then the position I stated might be accepted by the courts. The voters might not have to state any grounds. I think it's a legitimate legal argument and I don't know who would prevail, but I do think it would provide incentive for the legislature to act to state reasonable grounds.

Delegate Juan P. Tenorio: Yes, Mr. President, it's just as we discussed this afternoon and, as explained by our consultant, the wording "as provided by law" makes this even stronger. For that reason I move for the previous question.

President Guerrero: Before I entertain your motion please let some of the speakers speak. There are so many that want to speak.

Delegate Manuel Tenorio: Mr. President, I first want the record to show that I am not voting this proposal down because I don't trust the legislature. That's not my point. What I am opposed to in this particular provision is that the legislature cannot foresee what types of crimes will perhaps be applicable to them in the future. There are crimes that are even new to the States and we're putting them into our Constitution. The present legislature cannot enact a law for the recall provision that will project future crimes because we don't know what type of shape they will come in. This provision, if left open, can be for the courts to decide if any grounds are justified. I don't see any reason, personally, why a senator or legislator should fear such provision in this. At present I think we have men for our legislature that are very good and I think they are doing their job. This is only for public officials. I feel that it is fundamental for the people that are voting to have the right to recall elected officials. I'm sure that this particular provision, while it may be used in the future--but I do not see it being used in the next two, three or four years--this provision will, in fact, protect some public elected officials. Thank you, Mr. President.

Chairman Atalig: First of all, Mr. President, I have to disagree with the comment by the consultant, the honorable Howard, on the ground that his interpretation of this is entirely different from the consultant that consulted this particular committee.

President Guerrero: Chairman Atalig, please confine yourself. I believe the issue now before us is amendment 93.

Chairman Atalig: Yes, and I am referring to his interpretation.

President Guerrero: I believe amendment 93 was not discussed in your committee.

Chairman Atalig: It was discussed "as provided by law" and I am trying to relate what has been said. His is contrary to what the consultant to the committee said. That's his personal opinion.

President Guerrero: There seems to be some confusing information here because members of your own committee are saying "no, no, no."

Chairman Atalig: For their recollection I will put out the committee's report and these gentlemen signed the report.

Delegate Magdalena Camacho: Mr. President, I want the record to show that since the people elect you, they have the right to get you out of office.

President Guerrero: Are you referring that to the president?

Delegate Camacho: NO!

(Laughter)

Floor Leader Raza: Move to end debate.

The motion was seconded and carried.

Motion to adopt proposed amendment number 93 was defeated by roll call vote.

Delegate Igitol: Privilege. I want the present legislators to know I will still be voting for them next time.

Delegate Ogo: Point of information. On recall, does that mean that any of the congressmen or senators from Rota...that the people of Rota want to recall one of these...does that mean the entire Commonwealth is going to vote?

(Many Delegates said "no")

Delegate Benavente: (Chunorro)

President Guerrero: The Chair will now call a short recess.

The Convention recessed at 9:10 p.m.

RECESS

The Convention reconvened at 9:23 p.m.

Delegate Ogo: I move to adopt proposed amendment number 96.

The motion was seconded.

Delegate Ogo: Mr. President, I would just like to make some clarification because there was some misunderstanding on the earlier reports. The only intention of this amendment 96 is to change the general laws to be passed by a simple majority to be inserted as "two-thirds" instead of "simple majority". That is the only thing intended to do by this amendment. There are some typographical errors, though. Local laws are not changed. The only change is on subsection (d) to change it to "two-thirds of the registered voters of the Commonwealth" instead of "majority." The reason I drafted this, Mr. President, is that it may impose some restriction in the future on our legislature that although the legislature may repeal any law through initiative, it may incriminate the legislature to go against any law enacted through petitions because of votes they are getting. So, in order for the people to be given the chance, then let's give them a chance on a larger basis rather than just a very simple majority. This is why I strongly feel that if we are to give the power to the people then we should upgrade the percent from a simple majority to two-thirds.

Delegate Palacios: I think in the amendment we are trying to get the Commonwealth people to initiate laws by two-thirds of the registered voters. I don't think this amendment is a good amendment.

Delegate Maratita: Mr. President, I think we should really take a good look at this subsection (d). What we have here in the change for style is "An initiative petition that proposes a general law for the Commonwealth shall become law if approved by a majority of the votes cast," whereas, in the initial provision that doesn't show "votes cast" but "registered voters." These are two different things. Isn't amendment 96 just a reversal from what we did this morning? This afternoon we amended the position that 2/3 be amended by a majority. So what we're trying to do now is just reverse and go back to the original position.

President Guerrero: May we ask the mover of the motion if that is his intention.

Delegate Ogo: Delegate Ramon Villagomez has already made that correction-- that "votes cast" should be changed to "registered voters."

Mr. Willens: That's what I was told earlier in this session. To strike the words "votes cast" and I have done that on my copy on the basis that it was an error. And so it reads now "by a majority of the persons qualified to vote in the Commonwealth" which means the same as a majority of the registered voters. That's what I presently have and so the amendment would change the word "majority" to "two-thirds."

Delegate Maratita: The amendment this afternoon, Mr. President, was that we go back to the original and only that we change the word "two-thirds" to "majority of registered voters in the Commonwealth." That was the only change that we made this afternoon.

Delegate Juan P. Tenorio: Mr. President, according to amendment 18 which was debated this afternoon, the proposal was to change the draft of the First Reading was to change "two-thirds of the registered voters of the Commonwealth" to "a majority of the votes cast." The one that came up this evening is for a majority of the votes cast. The amendment now up is for two-thirds of the votes cast.

Delegate Palacios: No, registered voters.

Delegate Calvo: Mr. President, I think the proposed amendment 96 has merit due to the fact that "a majority of the votes cast"...say, for example, that about a third of the people are apathetic. They don't care to go out and cast their vote and they don't care which way the ball bounces. Are we trying to make it easy for the Commonwealth people to pass laws or enact laws by themselves? Is that what we're trying to do?

Delegate Ramon Villagomez: (Chamorro)

Delegate Ogo: For further clarification, Mr. President, if we just go on the original proposal, that is what this is--the amendment.

Delegate Calvo: As I was stating, Mr. President, are we trying to make it easy for the people to enact laws? What are we trying to accomplish in this? Are we trying to control a responsible type of law? A majority of the registered voters means 51% of the registered voters in the Marianas. And a majority of that is another 51%. That's 51% of 51%.

Delegate Palacion: No, no. Only 51% of the registered voters.

Delegate Calvo: If there are 5,000 registered voters, what is the majority of the registered voters? It's 2,501, right?

Delegate Palacios: Right.

Delegate Jesus Villagomez: What this implies here is that if we're talking about "majority of the qualified voters" and have 6,000 qualified voters, then 3,001 have to go out and cast their vote "yes" for it to be in effect. If only 3,001 voters go out, then all 100% of them have to vote "yes." It's impossible. And if you're going to make that "two-thirds of the qualified voters" then it is more and more and more impossible.

Delegate Calvo: So what is the correct language here, Mr. President? Am I supposed to read here "An initiative petition that proposes a general law for the Commonwealth shall become law if approved by a majority of the registered voters?"

Delegate Ogo: Right, but there is an amendment now to change that majority to two-thirds. That's what we're discussing now.

Chairman Fitial: Mr. President, I am beginning to doubt whether we know what we really want in here. This proposed amendment would further the impossibility. It's not only 2/3 of the votes cast, but you have to have 2/3 affirmative voting for such legislation. For the record, Mr. President, the amendment is in itself presenting a very big problem. It would provide a very stringent requirement for the people to enact legislation. I think we might as well take this provision out of the Constitution.

Delegate Ogo: Exactly, Mr. President. From the beginning I have totally disagreed with this initiative because we already have senators and congressmen. So, what is the purpose of giving the people the privilege of voting laws when we already have senators and congressmen on whom we're spending thousands and thousands of dollars. Therefore, if we're going to give the people this privilege, then let's not make it very easy for them to make any laws they want to. The way it is at the present time, we have seen that a very strong political party may get together and initiate a law everyday. That means if it is just a simple majority--and because we have seen at the present time the active-ness of these political parties. Just one person with a lot of influence could call the people together and say, okay, we want this law because it protects the majority, the political party majority. And they can totally disregard the legislature. With this kind of system we are making it very easy and I do not see why. That is why I think we should raise it from a simple majority to two-thirds and make it a little bit more difficult.

Delegate Ping: Mr. President, there is a merit on the proposed amendment, however, there is also a demerit. There is a tendency of our people on practically every election not to go to the polls and vote. The merit of this proposal is that 2/3 would probably be a workable solution. However, on the "registered voters"--as I said before, the tendency of our people is not to go to the polls and vote. I would suggest, instead, that we have "2/3 of the total votes cast." I think that would be the most workable solution. Now, we have been discussing this and zigzagging back and forth on this particular article, therefore, at this particular point I would like to ask the indulgence of the honorable Delegates in this Convention to suspend Rule 47 to put this to "votes cast" rather than "registered voters." Then I would go along with the proposed amendment, provided we make it "votes cast." I think that is the most workable solution.

Delegate Jesus Villagomez: I don't think it's necessary to make any amendment in written form because his is an amendment to an amendment.

President Guerrero: We have to get the consensus of the Delegates. Is there an objection?

(There was no objection.)

President Guerrero: Please proceed with your amendment.

Delegate Diaz: Just to change "registered voters" to "votes cast." That is all of the amendment, Mr. President. It will be "An initiative petition that proposes a local law shall become law if approved by two-thirds of the votes cast in the Commonwealth."

(There was discussion that the wording would make it a general law.)

Mr. Willens: If you look at amendment 96, it's exactly that way. "An initiative petition that proposes a general law for the Commonwealth shall become law if approved by two-thirds of the votes cast by persons qualified to vote in the Commonwealth."

Delegate Diaz' motion was seconded.

Delegate Ogo: Because of that amendment, Mr. President, I am withdrawing my amendment 96.

Delegate Jesus Villagomez: Mr. President, he cannot withdraw his amendment because we have just made an amendment to the amendment.

President Guerrero: Well, we'll just entertain that amendment here.

Delegate Juan P. Tenorio: Mr. President, I share the feeling of Delegate Diaz that we do not want to make it too hard but at the same time we don't want to make it too easy because this is the essence of an initiative. Mr. President, this is good. I move to end debate.

Motion was seconded and carried to end debate.

Motion to amend by using the words "votes cast" rather than "registered voters" carried by roll call vote.

Delegate Limes: (Chamorro)

Motion to adopt Article IX on Second and Final Reading, as amended and including the style recommendations, carried by roll call vote. The votes were as follow:

YES: Delegates F. Atalig, Attao, Ayuyu, Benavente, J. Borja, O.T. Borja, M. Camacho, Castro, Dela Cruz, Diaz, Fitial, L. Guerrero, Igitol, Limes, Mafnas, V. Manglona, Maratita, Palacios, Rasa, Taisacan, M. Tenorio, Torres, J. Villagomez, R. Villagomez and P. Manglona. (25 votes)

NO: Delegates D. Atalig, P. Atalig, Calvo, Hofschneider, King, B. Manglona, Ogo and J. Tenorio. (8 votes)

ABSTAIN: Delegate Juan S. Demapan. (1 vote)

(As per the earlier ruling of President Guerrero, the one abstention was counted as an affirmative vote, making the final count 26 affirmative and 8 negative.)

Delegate Ramon Villagomez: Mr. President, privilege. I would like to ask why the changes made this morning have not been made and given to us. Why did we get a copy back that made such a confusion?

Mr. Willens: I'm sorry if there has been confusion. We acted on the basis of amendments that were passed, including 18 which refers to "votes cast." But there were some mistakes and I apologize for them. We tried to clarify it but if that contributed to the confusion we can begin all over again on

tomorrow. If it contributed to the difficulties there.

Delegate Ayuyu: How do we treat a person who is sitting in this Convention but refuses to vote?

President Guerrero: He will be absent for the voting.

Delegate Hofschneider: Can I ask the Convention to vote on sections 2 and 3 only?

President Guerrero: It's as the consultant stated. If there's any inconvenience because of the papers it can be corrected.

Delegate Castro: Can we be guaranteed that all changes made this morning will be reflected?

President Guerrero: It will be reflected in the record. Any any amendment.

Delegate Ogo: Mr. President, there is a great confusion on subsection (d) according to the report made from the Committee of the Whole. Our consultant, unintentionally, probably, put a lot of wording in there that were not changed. I just hope that this will be corrected and reflect the correctness on what we have done.

President Guerrero: That will be done. I am sure the consultant will do it.

Chairman Maratita: I just want the record to reflect that there was no deviation from what was discussed this morning in Committee of the Whole. I did not report a wrong information.

(There was continued discussion that 3/4 Delegates were present and voting and an affirmative vote of 26 votes was required for passage. A second roll call vote was taken on Article IX--the votes reflected above.)

President Guerrero: The result of the final voting for Article IX, as amended, is 26 yes, 8 no, and it does pass the 3/4 requirement.

Chairman Maratita: I move that the Convention adopt on Second and Final Reading Article XII, regarding "Land Alienation," as amended by the changes for style.

Floor Leader Rana: I move that we adopt proposed amendment 95.

The motion was seconded.

Delegate Ramon Villagomez: This is a bad amendment. I oppose it.

Delegate Dela Cruz: Mr. President, this amendment would encourage the leasing of private real property. This would also open the avenue for landowners who have good land to offer it for lease for commercial basis so that the economic benefit can be spread out. In the provision on public land we have granted an extension of another fifteen years with the approval of the legislature. But if we limit them here then potential investors will only look upon public land as a favorable term. I feel that the economic benefit should be extended to the local people and this is one way that we can accommodate their economic needs.

Delegate Jose Borja: Mr. President, I think the proposed amendment defeats the purpose because on the original article it says "more than" so that includes 40 years, too. The original one says "more than 25" so there's no purpose served by this.

Delegate Dela Cruz: Mr. President, that is a period of twenty-five years, including renewal rights. I have checked this with our consultant and I would like to be corrected if I am wrong. With the present language doesn't it mean a total of twenty-five years? Would that include an extension up to 40 years?

Mr. Willens: It would not as presently written. Section 3 describes long-term to be more than twenty-five years including renewal rights. The section

covers both private land and public land. The long-term interest is defined in this section and it cannot be leased to someone who is not of Northern Marianas descent past that. Your amendment is extending that to forty years and that would mean you could lease land up to forty years to persons who were not of Northern Marianas descent.

Delegate Dela Cruz: The main purpose of this is to open an avenue for landowners for them to reap the benefit of profit, too. Someone may ask how can they be part of the profit. The system can be developed where a division can be developed for a profit-sharing system.

Delegate Olympio T. Borja: I view section 3 to be further definition of section 1 which provides the definition of long-term interests. We do have the procedure whereby it could be extended fifteen years on public lands as long as there is approval by 3/4 of the legislature. If I read this correctly, it will be still consistent with that so this amendment, to me, is of no importance of all.

Delegate Dela Cruz: Mr. President, we are dealing with private property now and not public lands. On lease of private property the legislature has no business. The legislature can provide for regulations for leasing of private property. But Senator Borja is referring to public lands. Unless this language is correspondent to the language under public lands, then I agree. But this one is specifically talking with regard to the alienation of land.

Delegate Palacios: Point of inquiry. If this provision is passed as amended can we lease public lands for forty years?

Mr. Willens: The provision for forty years on the public lands article deals only with public land. It does not say who you can lease to for forty years, thirty years, or any amount of years. It says you cannot lease it for more than forty years. If this section 3 in Article XII stays as it is at twenty-five years, that means you could not lease even public land to a corporation for more than twenty-five years unless that corporation qualifies as a person of Northern Marianas descent under this article. The number of years does not have to be the same in the public lands provision and in this provision. Now, have I answered your question?

Delegate Palacios: No, not quite. Now, let's say...If this provision is adopted, as amended by amendment 95 where you can lease the land for forty years....Then public lands could also be leased for forty years?

Mr. Willens: Public lands can be leased for forty years under the provision as we amended the other day with approval of the legislature. This has nothing....This covers both public and private lands and it controls who can get leases of more than twenty-five years or of more than forty years if this amendment is adopted. And if this amendment is adopted you can lease land to a foreign corporation--a 100% foreign corporation--up to an amount of forty years. But if it is more than that it would have to be a corporation that qualifies as a person of Northern Marianas descent. The important thing to remember is that it covers both public and private land and, secondly, it controls even the disposition of public lands because you cannot lease public lands to persons who are not of Northern Mariana Islands descent for more than twenty-five years as it is written and before you.

Delegate Palacios: I rise in opposition to this amendment. We have reviewed this question in the committee for a long, long, long time--and our consultant is aware and has a doctorate in economics--and we studied this from an economic point of view if leasing this for a period of twenty-five years would stagnate economic development. We found out that it was not going to stagnate economic development. And our experience, also, in the past during the Japanese Empire occupation of the Trust Territory, including Saipan, Tinian and all the islands, the Japanese government never allowed us to lease the land for more than thirty years. And then later on never allowed us to lease the land for more than twenty years. But that kind of arrangement never stopped the economic development in the Trust Territory. As a matter of fact, by 1939 Tinian alone was paying all the civil service for all of the Trust Territory. The royalty from Tinian alone was paying the whole damn Japanese from that money. But I don't believe this economy that tells me that unless we go beyond twenty-five years we're going to stagnate our economy.

Delegate Dela Cruz: What he is referring to is a war economy. Not a capitalistic economy.

Delegate David Atallg: I would like to ask if when we are talking about a corporation of 100% Northern Marianas descent, are we precluding them from leasing land?

President Guerrero: No.

Delegate Juan P. Tenorio: I would like to pose a question to the consultant. When we say that public land can be leased for an extension of fifteen years with the approval of the legislature, would that in anyway have a conflict with this?

Mr. Willens: No, Delegate Tenorio. In my judgment there is no conflict between the two provisions. You can keep this at twenty-five years and still have the limitation on public lands at forty years.

Delegate Vicente Manglona: Mr. President, I rise to disagree with amendment number 95 for the simple reason that we have given too much to the foreigner. I think local cooperation here can establish its own business and I don't see why we are supporting the interest of the foreigner. There is the fact that the economic development fund is very good to assist the interests of the local businessman. That is the main reason I think we can do business with our own people instead of enticing the foreigner to come in and do business. That foreign money would go out rather than remain in our economy. Therefore, I would have to disagree with this amendment number 95 one hundred per cent.

Delegate Juan S. Demapan: Mr. President, when are we going to move to end debate?

Delegate Dela Cruz: Mr. President, just by the mere fact that we have opened this place to be part of the American political family is that we are opening ourselves to foreign investment. Also, we are denying the same United States citizens who are taxpayers who are not Northern Marianas descent. They are taxpayers, too. We are denying them the privilege of utilizing the land here. Of course, what Dr. Palacios.....

Delegate Palacios: Point of order. The subject is not "Dr. Palacios."

President Guerrero: Delegate Dela Cruz, please confine yourself with your statements.

Delegate Dela Cruz: Mr. President, we are talking about investments and we're talking about lease. We are not talking about selling of property. You do not lose your property when you lease it. If you hire a good lawyer you can have a darned good agreement that will be to your benefit in everyway.

Delegate Igitol: I certainly agree with my colleague from Tinian. I believe that we should tell Mr. Jones to get out of Tinian.

Delegate King: I certainly support this amendment because I would like my land to be leased for longer than forty years. Longer than 25 or longer than 40 years.

Delegate Calvo: One question first. With this section am I to read that the government is going to impose a twenty-five year lease on the land that I own?

Mr. Willens: The government will not tell you to whom or for how long you can lease your land. That is your private property. What the Constitution is saying in this provision is that you could not lease it for more than twenty-five years to someone who is not of Northern Marianas descent. If you want to lease it for more than twenty-five years it would have to be someone who is of Northern Marianas descent. If you want to lease it for under twenty-five years it can be to whomever you wish.

Delegate Calvo: That defeats the basic principle of free enterprise.

Mr. Willens: On restrictions on land it is, indeed, a limitation on your right to dispose of your property. This Constitutional provision and the Covenant are designed to prevent people in the Northern Marianas from selling their land to whomever they wish.

Delegate Calvo: We're not selling here. We are talking about leasing.

Mr. Willens: Or on long-term interests which have been defined here as a lease of more than twenty-five years. The purpose of the amendment here is to extend the number of years so as to give you more freedom to lease the land for a period of less than forty years. But in either event there is a limitation on your freedom to lease or sell the land in order to achieve the objective here of keeping the land in the protection of people of Northern Marianas descent. There is clearly a limitation on your personal freedom involved and there are some people in this community who undoubtedly will oppose this provision because of that.

Delegate Calvo: Mr. President, I like to make money, too. If Mr. Rockefeller comes in and wants to lease my land.....I have a price. I think, Mr. President, that this amendment has merit. If Mr. Rockefeller has the money, I'll give my land to him because I want to make money, too. Not everyone of Northern Marianas descent can afford my price. I think, Mr. President, that we are deviating from a lot of things and trying to strangle the very people we're trying to protect. What are we trying to do? What are we trying to prove? I'll repeat again. I want to lease my land to just anybody I want to--including a person from Timbuctoo.

Delegate Ayuyu: I'm all confused now. I was going to ask what is "alienation." A forty year lease is alienation of land?

Mr. Willens: "Alienation" is just a fancy word meaning "transfer." It is defined in section 1. What you're talking about is permanent and long-term interest in property. That's what you cannot alienate, which means that's what you cannot transfer. What you have done here in this constitutional provision is defined a transfer of long-term interest as one of longer than twenty-five years including renewal rights. So selling your land or leasing it for more than twenty-five years are the two kinds of transfers that are restricted by this constitutional provision. They are restricted because you cannot make those transfers to persons who are not of Northern Marianas descent.

Delegate Manuel Tenorio: I just want to point out at this time that this does not prevent or restrict an owner from leasing his private property to a person of Northern Marianas descent or a corporation of Northern Marianas descent. And he can sell it, too. We restrict the corporations by defining that descent so we can make use of that corporation and we can involve our people in that corporation. If you are a private landowner and wish to lease your land for one hundred years, I suggest you lease it to a corporation of Northern Marianas descent. If you want to sell it, I think they can come up with the cash. It does not restrict that kind of economic development as previously mentioned by the honorable Delegate Dela Cruz. You still have this leeway. But it does, of course, prohibit an owner from selling to an individual or corporation other than Northern Marianas descent.

Delegate Dela Cruz: Mr. President, may I correct that. I did not say it was prohibiting it. I said this opens another avenue.

Delegate Palacios: Mr. President, we have been talking about and we have been truly concerned about leasing our land so that our people will not come out like the Hawaiians today. They call themselves Hawaiians but they own very little land in Hawaii. The Guamanians today own only about 33% of the whole of Guam land. The rest belongs largely to the government, and the rest to non-Guamanians. Land is what we inherited from our ancestors. I look at it this way: If I have land and I lease it for fifty years, and I die in 20 years then my children have to wait for 30 years before they can benefit from the land, unless I rightfully invested that money. I do not believe that 25 years is an unreasonable time. In fact, the United States government has been quite concerned with how we were going to interpret long-term interest. If there is a lease of more than 25 years it is just synonymous to really

losing your own land. We are very concerned about this so that our people will not be like the Guamanian, nor like the Hawaiian. We like to make money, but are we not going to make money with twenty-five year leases?

Delegate Juan F. Tenorio: What I am going to say now is a fact of life. My folks were approached at one time to lease their property which is only little--100 by 100. The person who wanted to lease the property did not want it for a twenty-five year lease. He wanted a thirty year lease. My folks are very old but they still have responsibilities. We have our own family. That property is now being leased for \$500 per month. How many of you can afford to pay my folks \$500 a month for the rest of their good natural lives? That's because you want twenty-five years. Who are you trying to protect? Are you protecting my folks for those twenty-five years? Let's be reasonable. And this is true. The record will show what I am saying. I think forty years is a very reasonable time.

Chairman Fitial: I make a motion that we end debate.

The motion was seconded and carried.

Motion to adopt Amendment No. 95 carried by roll call vote.

Motion to adopt Article XII, regarding "Land Alienation," as amended and including the changes for style, was carried by roll call vote. The votes were as follow:

YES: Delegates P. Atalig, Attao, Ayuyu, Benavente, J. Borja, O.T. Borja, Calvo, M. Camacho, Dela Cruz, J.S. Demapan, L. Guerrero, Hofschneider, Igitol, King, Idmes, Mafnas, B. Manglona, P. Manglona, Maratita, Ogo, Rara, Taluacan, J. Tenorio, M. Tenorio, Torrea and J. Villagomez. (26 votes)

NO: Delegates D. Atalig, F. Atalig, Castro, Fitial, V. Manglona, Palacios and R. Villagomez. (7 votes)

ABSTAIN: Delegate Diaz. (1 vote)

(As per the President's earlier ruling, the one abstention vote was counted as an affirmative, making the final count 27 affirmative and 7 negative.)

Chairman Maratita: I move that we adopt on Second and Final Reading the Preamble as amended by the changes for style.

The motion was seconded.

Delegate Hofschneider: I move that we adopt proposed amendment 94.

The motion was seconded.

Delegate Dela Cruz: There is a style change in the copy provided by our consultant. What is the purpose of "Northern Marianas heritage" in there? Is there a special meaning to it?

Delegate Hofschneider: It has clarity, consistency and style. It is perfect. That's all.

Delegate Palacios: Howard, "to serve as fundamental law," is that necessary? Is it necessary to spell that out here or is it understood that the Constitution is our fundamental law?

Mr. Willens: Nothing in this Preamble is necessary. This language was in the amendment I was given to work with and it seemed a graceful way to begin the Preamble and so I incorporated that with what has been recommended by the President. I made four other changes. I made the change about "upholding prestige." I don't think upholding prestige is a very desirable goal for you because I think it's unclear as to whose prestige you're upholding and where you're upholding it. So I dropped that. I thought the concept of the dignity

of an island Commonwealth was a good phrase and I put it at the bottom. I thought that blessing, invocation of the Almighty might be a useful way to conclude the Preamble. I did not think the reference to enjoyment of rights and privileges imposes duties and obligations had any particular grace or meaning as a way to end the Preamble so I put it in the middle. So that you preserve what you have and enrich it in the future. Then I used the Almighty God as a proper conclusion. It has grace, dignity and almost poetry.

Delegate Palacios: On the fifth line where it says "the present generation and generations to come." My understanding of constitutional law is that each generation must have its own constitution. So the wording here is quite contradictory to the concept of democracy and constitutions. So I don't see it as quite proper to spell out "next generation."

Mr. Willens: You're right, Delegate Palacios. Thomas Jefferson said that every generation ought to establish its own constitution.

Delegate Magdalena Camacho: It seems to me that Delegate Palacios is not being confined to amendment 94. What he is talking about is the amendment from this morning. What we are talking about here is the change of our Northern Marianas heritage from Chamorro and Carolinian.

Delegate Palacios: I'm sorry. I was just going too fast.

Delegate Manuel Tenorio: (Chamorro)

Chairman Fitial: Mr. President, I would like to pose a question to the author. What do you consider Northern Marianas heritage?

Delegate Hofschneider: I remove those few words, "Northern Marianas heritage" and put down "Chamorro and Carolinian," we are defeating the purpose of the Northern Marianas. We are the people of the Northern Marianas. In years to come we will have new citizens who are Northern Marianans. If you put down Chamorro and Carolinian what will you do with those new ones?

Chairman Fitial: That doesn't answer my question, Mr. President. I am referring to "heritage." I'm asking what is "Northern Marianas heritage."

Delegate David Atalig: Mr. President, I see the point that Chairman Fitial raised. With the consent of the other two who signed this I would like to withdraw our amendment. I would like to include just "our heritage." This would include Chamorro, Carolinian and those citizens of the Northern Marianas who will be here in the future.

Delegate Maratita: "Northern Marianas heritage" would include everyone. That would include Chamorro, Carolinian, Japanese, Filipino and everyone that calls the Northern Marianas their home and calls themselves Northern Marianas people.

Chairman Fitial: Let's be proud of our heritage. You are proud that you are Chamorro and we are proud that we are Carolinian. We have our own heritage separate of each other.

Delegate King: I support amendment 94. "Northern Marianas heritage" means our island and our people. "Chamorro and Carolinian" means that there are two kind of people. We should be one people. We should put it together.

President Guerrero: Could the Chair pose a question? How many kinds of people are in this room framing this Constitution?

Delegate King: Two, Chamorro and Carolinian. But does that mean you are going to exclude those people that come in later?

Delegate Ayuyu: I would think that "Northern Marianas" is more encompassing than "Chamorro and Carolinian." Our heritage is not just Chamorro and Carolinian. It is a conglomerate of many people. To make things simpler we can delete "Northern Marianas" and have just "our heritage."

Floor Leader Rasa: I move to end debate.

The motion was seconded and carried.

Motion to adopt proposed amendment 94 was defeated.

Motion to adopt the Preamble on Second and Final Reading was defeated by roll call vote. The votes were as follow:

YES: Delegates F. Atalig, J. Borja, O.T. Borja, M. Camacho, Castro, Dela Cruz, J.S. Demapan, Fitial, L. Guerrero, Igitol, Limes, Mafnas, B. Manglona, P. Manglona, Ogo, Rasa, Taisacan, M. Tenorio and R. Villagomez. (19 votes)

NO: Delegates D. Atalig, P. Atalig, Attao, Ayuyu, Calvo, Hofschneider, King, V. Munglona, Maratita, Palacios, J.P. Tenorio, Torres and J. Villagomez. (13 votes)

ABSTAIN: Delegates Benavente and Diaz. (2 votes)

(As per the President's earlier ruling, the two abstentions were counted as affirmative votes, making the final count 21 affirmative and 13 negative.)

Chairman Fitial: Privilege, Mr. President. I just want to point out the concern of the authors of the amendment which was defeated. "We the people of the Northern Mariana Islands"--who are they? Do they have a heritage? Some of the Delegates suggest that they have Northern Marianas heritage and their culture is Chamorro.

Floor Leader Rasa: Point of order. I think we cannot continue to entertain debate by privileged motion on an issue that has already been defeated. I just want to make that clear.

Delegate Calvo: After defeat what avenue is next?

President Guerrero: Nothing. This has been defeated. I hope that when the Delegates are voting they will take a serious thought about what they are doing. Don't say "no" or "yes" and not even think what is going to happen.


Delegate Ramon Villagomez: I move to recess until tomorrow morning at nine o'clock.

Floor Leader Rasa: Mr. President, I understand that the Conference Committee will have a meeting at 8:30. That might take them an hour. If there's no objection I would like to ask the mover to change his motion to ten o'clock.

Delegate Ramon Villagomez: I so move.

The motion was seconded. The Convention recessed at 11:10 p.m.

APPROVED:


Lorenzo I. Guerrero, President
Northern Marianas Constitutional
Convention


Pedro M. Atalig
Convention Secretary