

CONSTITUTIONAL CONVENTION
of the
NORTHERN MARIANA ISLANDS

VERBATIM JOURNAL (TRANSCRIPT)

Forty-Seventh Day
Friday, December 3, 1976

(1) The Constitutional Convention of the Northern Mariana Islands was called to order at 10:30 a.m.

The Honorable Lorenzo I. Guerrero, President, presided.

(2) A moment of silent prayer was observed.

(3) The Convention Secretary called the roll. There were 33 Delegates present. Delegates Jose R. Cruz, Henry U. Hofschneider, Benjamin T. Manglona, Prudencio T. Manglona, Pedro M. Ogo and Leon I. Taisacan were absent. No Delegates were excused. A quorum was present.

(Delegate Pedro Atalig moved that those Delegates not in attendance be excused. The motion was seconded and defeated.)

(4) ADOPTION OF THE JOURNAL

Floor Leader Rasa: I move for the adoption of the Summary Journal of the 46th Day.

The motion was seconded and carried.

Chairman Atalig: I call the attention of the Delegates to page 2, specifically on the amendment made by Senator Borja. If I'm not mistaken, Senator Borja went on to amend the closing clause of the Resolution yesterday as it was ordered by the President. I would like to go down further, Mr. President, by bringing your attention to Chairman Mafnas' part to delete the word "Office" and insert the word "Officer" Jose.

President Guerrero: I thought it was changed to "Sergeant", anyway.

Chairman Atalig: Yes, but "Office" is not the right word.

Delegate Calvo: Mr. President, on page 3, the last paragraph. I wonder if this is the right Delegation appointment.

President Guerrero: No, that was supposed to be Delegate Calvo instead of Delegate King.

Motion to adopt the Summary Journal of the 46th Day, as amended, carried.

Floor Leader Rasa: I move to adopt the Verbatim Journals of Days 30, 33, 34 and 36.

The motion was seconded and carried.

(5) COMMUNICATIONS - None.

(6) COMMITTEE REPORTS

Chairman Borja: I would like to report that your Special Committee and our consultant reviewed the eleven communications assigned us by the President. We are pleased to note that each submission was very thoughtful and displayed the correspondent's thorough study of the draft Constitution. Your special committee considered suggestions offered by the Resident Commissioner, Erwin Canham; Strik Yoma, Director of Public Affairs for the Trust Territory Government; Roger N. Ludwick; Senator Herman R. Guerrero; Jack Layne, acting

Attorney General for the Northern Mariana Islands; A.C. Tenorio, Director of Public Works for the Northern Mariana Islands; Juan A. Sablan, Executive Officer and at that time Acting Deputy High Commissioner of the Trust Territory; the United Carolinian Association; Felicidad T. Ogunoro; Joaquin I. Pangellinan; and Reynaldo O. Yana.

Mr. President, the views of these correspondents fell, for the most part, into one of four general categories. However, many of the criticisms of the November 14 draft have been solved and cured in the Constitution as approved by the Convention on Second and Final Reading. Many of those submitting comments, for example, were concerned primarily over the size and expense of a thirty-nine member legislature. Another communication was disturbed that the article on personal rights included the guarantee of a militia. The United Carolinian Association observed that the draft Constitution made no provision for the representation of Carolinians in the new Commonwealth government. The Constitution also now protects the island of Maug. The Constitution as revised taken into account all of those points and objections raised.

A few of these eleven letters included the criticism that the language of the Constitution was unclear. One correspondent voiced unease over the scope of the protection of juvenile defendants in criminal cases. This second type of concern is remedied by the section-by-section analysis.

Third, Mr. President, some of the comments were directed at decisions of public policy reached by the Convention after long and painstaking deliberation. Several correspondents, for example, expressed distaste for the provisions on the alienation of land.

Fourth, a very few letters urged that the Convention adopt provisions that would be in violation of the Constitution of the United States. One individual urged the inclusion of language requiring certain public officials to have been born in the Northern Mariana Islands. The special committee strongly disfavors the adoption of any such constitutional provision.

Your special committee, therefore, commends each of the eleven correspondents for taking the time to assist the Convention in its important work. Your committee welcomes the continued interest of these Marianas residents in the progress of the Constitution. Your special committee recognizes the sincerity of such views, but believes that no useful purpose would be served by reconsidering topics already resolved by the Convention. Accordingly, your special committee feels that the task assigned them has been completed.

Therefore, Mr. President, your special committee recommends this special report favorably. I will now ask the pages to distribute it to all members. Thank you.

Chairman Mafnas: Mr. President, your special sub-committee met to discuss Section 11 of the Transitional Schedule, regarding "Saipan Election Districts." We have come up with a formula which should be discussed some more by this sub-committee. Therefore, we ask that item 7 on our order of business be deferred until this afternoon. We came up with an acceptable formula but, then, this morning there was a revision. The committee feels they should be given more time. I move that this subject be placed under item 10, "Unfinished Business" for this afternoon.

The motion was seconded and carried.

Delegate Herman Guerrero: Privilege, Mr. President. On the report just distributed from Senator Borja's special committee I notice that there is nothing noted about the correspondence from St. Pierre and the rest of the legal consultants of the Legislature. May I ask why?

Chairman Borja: The file that we were assigned did not contain that correspondence but if the President wants us to review it, we will do so. I do, however, believe that the points raised by St. Pierre were cured by other correspondence and provisions passed since then.

Delegate Herman Guerrero: There was correspondence from the Chamber of Commerce that is not listed here either.

President Guerrero: The concern of the Chamber of Commerce was taken care of in our early deliberations. However, I will ask that special committee to also review the correspondence mentioned in case any of the concerns listed haven't been covered.

Chairman Borja: Mr. President, I move that the report from the special committee be adopted.

The motion was seconded and carried.

Secretary Atalig: I'd like to report that the Style Committee met and discussed the signing ceremonies. It will be held Sunday, December 5, 1976, at two o'clock in Mt. Carmel Auditorium. The attire is island wear. Decorations are being arranged with the student body there. There will be refreshments and invitations and public announcements have already been prepared. Also, the committee decided on having a reception at the Royal Taqa. It will be buffet with Delegates, staff and a few guests invited. Also, if we can approve the final draft of the Constitution, we could get it ready for the printers today. If we don't get it approved today, however, we will have to get it typed up by our clerical staff here. The Committee has also made a tentative order of business for the signing ceremonies. We would have the invocation and have requested Monsignor Tomas Camacho to do so. We would have the reading of the Preamble by Delegate Magdalena Camacho. We would have remarks by our President and Resident Commissioner Canham and then the signing of the Constitution by roll call. There will then be the presentation of the Constitution to Resident Commissioner Canham. Chairman Fitial was kind enough to arrange singing of the island anthem by "The Islanders" and then to complete things there will be the benediction. That's what the Committee has done so far.

President Guerrero: Could we get the consensus of this Convention on that? I understood you to say that it will be island attire?

Secretary Atalig: Yes, because of the heat. It's just too hot to wear a coat and tie.

President Guerrero: Wouldn't it be more appropriate to wear a tie because of the occasion?

(Several Delegates said "no.")

Secretary Atalig: We'll leave it up to the discretion of each Delegate if he wants to wear a coat and tie. But it'll be a hot day and it'll be at 2:00 with no airconditioning.

President Guerrero: Is that strongly recommended by the Committee?

Secretary Atalig: Extremely.

(Several Delegates agreed with Secretary Atalig.)

Chairman Atalig: I wonder if the Secretary would be kind enough to give us a copy of that?

Secretary Atalig: I'm reporting it to you orally now. You could listen. But it will be finalized this afternoon and distributed to the Delegates.

Delegate Dela Cruz: Since this is a momentous occasion, are we disseminating information for the public to attend?

Secretary Atalig: Yes, as I stated before, we have been preparing public announcements and invitations.

Delegate Maratita: May I inquire what is wrong with Monday?

Secretary Atalig: It's better on a Sunday because the people are not working.

Delegate Ramon Villagomez: If we have the official signing on Sunday, what would we be doing on Monday?

Delegate Jesus Villagomez: On Sunday we'll sign one original. On Monday we'll sign 54 copies.

President Guerrero: Monday is the last day of our Convention and we will have many final things to clear up.

Secretary Atalig: I'd like to report also that we have already printed the covers for the Constitution and the Preamble pages and signature sheets.

(Secretary Atalig displayed the printed sheets for approval.)

Delegate Magdalena Camacho: I just want to remind the members that since this is a regular session for the signing of the Constitution, the Committee is urging the members not to make speeches during that day.

Delegate Jesus Villagomez: I'd like to change that to "we're not asking the members to not make speeches; we're limiting the members from making speeches."

Delegate Diaz: All speeches made by Delegates should be made in this Convention Hall when we hold our last session on Monday.

(8) SECOND AND FINAL READING OF COMMITTEE RECOMMENDATIONS

Calendared: Section 14, Schedule on Transitional Matters, regarding "Approval of the Constitution by the United States."

Floor Leader Rana: I move that we adopt Section 14 of the Schedule on Second and Final Reading.

The motion was seconded and carried unanimously by roll call vote. There were 33 affirmative votes.

Delegate Manuel Tenorio: I want the record to show that the Covenant does not include a number of days for the reconsideration of the Constitution if disapproved by the United States. It would be up to the U.S. government to approve the second reconsideration, as far as the number of days are concerned. But the Covenant has no provision giving the number of days for the United States to reconsider and act on it. That's for the record. Thank you.

(9) INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

Calendared: Resolution No. 9, authorizing and directing the President and Secretary to review and approve the summary and verbatim journals of the Convention's activities.

Resolution No. 10, extending thanks and appreciation to the staff of the Convention.

Delegate Jose Borja: Mr. President, I would like to introduce Resolution No. 11, concerning "Historical Site and Objects."

(Secretary Atalig read the Resolution as proposed.)

Delegate Ramon Villagomez: I move to adopt Resolution No. 11.

The motion was seconded.

Delegate Calvo: With this Resolution, would we include the Inter-Con Inn under Article XIX, Section 3?

Delegate O.T. Borja: The intention of the Resolution is that if we are in control, we want these things to be preserved. But I do see your point.

Delegate Manuel Tenorio: If there's no objection from the introducer, I would like to include the flag of the United States that's been on the President's podium, also. I no move.

The motion was seconded and carried to amend the main motion.

Chairman Fitial: I'd like to ask who owns those flags.

President Guerrero: They're owned by the people of the Northern Marianas.

Delegate O.T. Borja: Mr. President, just a minor modification, but I think we should change this to the president of the Inter-Con Beach instead of the general manager. If no objection, I would like to so modify the proposed Resolution.

(There was no objection.)

Chairman Mafnas: Mr. President, I just wonder what the chances would be of requesting the Inter-Continental management to leave the condition of this room exactly the same when we leave on Monday. I mean leave it that way forever. I think everything here should be considered historical to the Northern Marianas. Long after we're dead.

Delegate O.T. Borja: It would be good if we could be accommodated on that. Could we ask you, Mr. President, when you transmit this Resolution to see if this room could be named the Constitutional Room, Constitutional Gallery, or something like that?

Chairman Mafnas: I realize the cost of what I'm suggesting that the hotel do, but it would be historical and good for the hotel, too.

Delegate J.P. Tenorio: Chairman Mafnas has a noble idea and it might be possible. The management could make millions by charging a fee to come in and look at the room.

Delegate Diaz: I'd like to say that I support Chairman Mafnas' idea.

Chairman Fitial: These are all good ideas and we can spend the rest of the day talking about them. But I'm getting scared thinking about death.

Delegate J.S. Demapan: I object to the inclusion of the Inter-Continental Inn. We are here only because it's a convenience and because we have no other choice. This place has no place in the history of the Northern Marianas.

Floor Leader Raza: I move for the previous question.

The motion was seconded and carried.

Delegate O.T. Borja: One last thing. Because of the significance of this Resolution, I would like it to be signed by all Delegates to this Convention.

President Guerrero: Yes, that's a good idea.

Motion to adopt Resolution No. 11, as amended, carried by on vote by show of hands.

Secretary Atalig: I move for the adoption of Resolution No. 9, authorizing and directing the President and Secretary to review and approve the summary and verbatim journals of the Convention's activities.

The motion was seconded.

Delegate Jesus Villagomez: Who was the author of this Resolution?

Secretary Atalig: The President and Secretary co-authored.

Delegate Juan Villagomez: Will the Delegates be given copies when the Journals are completed?

Secretary Atalig: Yes.

Delegate O.T. Borja: I move for the previous question.

The motion was seconded and carried.

Motion to adopt Resolution No. 9 carried.

Secretary Atalig: I move to adopt Resolution No. 10, extending thanks and appreciation to the staff of the Convention.

The motion was seconded.

Delegate Vicente Manglona: The Resolution is missing the names of three persons. How about the administrative officers?

Floor Leader Rasa: I move that the names of the administrative officers be added to the Resolution.

The motion was seconded and carried.

Secretary Atalig: The names of the administrative officers were omitted because we felt a Resolution would be prepared by each Delegation for their administrative officer. But if not, I agree that they should be included here.

Delegate Diaz: What happened to the Resolution drafted by the Committee on Personal Rights?

President Guerrero: A Resolution is being drafted to cover that concern.

Delegate O.T. Borja: I move for the previous question.

The motion was seconded and carried.

Motion to adopt Resolution No. 10, as amended, carried.

Chairman Mafnas: I move that the Convention recess until two o'clock this afternoon. I also ask the members of the Special Committee to remain in the Hall for a few moments.

The motion was seconded and carried.

The Convention recessed at 11:20 a.m.

RECESS

The Convention reconvened at 2:15 p.m.

President Guerrero: May I ask the Chairman of the Special Committee to report on Section 11 of the Schedule on Transitional Matters?

Chairman Mafnas: Mr. President, your special committee met and arrived at a compromise regarding Section 11 of Transitional Matters. Without further elaboration, I move that the Convention on Second and Final Reading adopt, accept and approve the Saipan Election Districts proposal.

The motion was seconded.

Delegate Vicente Manglona: Privilege, Mr. President. If both groups agree, then I will vote "yes."

Chairman Mafnas: All members are in agreement.

Motion to adopt Section 11 of the Schedule on Transitional Matters, regarding "Saipan Election Districts," was carried by roll call vote. The votes were as follows:

YES: Delegates Felipe Atalig, Vicente Attao, Felix Ayuyu, Luis Benavente, Jose Borja, Gregorio Calvo, Antonio Camacho, Carlos Camacho, Magdalena Camacho, Daniel Castro, Pedro Dela Cruz, Juan DLG. Demapan, Juan S. Demapan, Hilario Diaz, Benigno Fitial, Lorenzo Guerrero, Pedro Igitol, Esteven King, Luis Limes, Jose Mafnas, Vicente Manglona, David Maratita, Francisco Palacios, Oscar Raza, Manuel Tenorio, Joaquin Torres, Jesus Villagomez and Ramon Villagomez. (29 votes)

ABSTAIN: Delegates David Atalig, Pedro Atalig, Herman Guerrero and Juan P. Tenorio. (4 votes)

(As per President Guerrero's earlier ruling, the four abstentions were counted as affirmative votes, making the final count 33 affirmative.)

(10) GENERAL ORDERS OF THE DAY - None.

(11) SPECIAL ORDERS OF THE DAY

Calendared: Reconsideration of Article II, Section 3, regarding "Composition of the lower house."

Final adoption of the entire draft Constitution.

President Guerrero: Reconsideration of Article II, Section 3, is under Special Orders for today because notice of recall was given yesterday, as you will remember. Delegate Torres, do you still intend to discuss this matter?

Delegate Torres: No, Mr. President, I wish to defer action on it.

President Guerrero: We will now go into the final adoption of the draft Constitution.

Delegate Torres: Mr. President, I have not had time to read and digest the entire draft. There's much too much to study it carefully enough so quickly.

Delegate Magdalena Camacho: Mr. President, if we don't get it to the printers today, the secretaries will have to type the Constitution here.

Delegate Manuel Tenorio: May I suggest that we discuss the changes and approve the entire thing tomorrow?

Delegate Carlos Camacho: I think we should delay passage of the entire draft until tomorrow in order to allow more time for concentration and study.

Delegate Luis Limes: Can the section-by-section analysis be distributed today?

Delegate Dela Cruz: I suggest that we recess now and meet again tonight to vote on this. That would give enough time for us to study it.

Delegate Magdalena Camacho: There's already been one night to read it.

Delegate Felipe Atalig: I have a question. On Article XI, regarding "Public Lands," could I ask why "international law" was deleted?

Mr. Willens: As my memorandum to the Convention indicated there were two references to international law. One is Section 1 of Article XI which is the one Chairman Atalig is referring to, and the other is Section 1 of Article XIV. In both cases I deleted the references of international law for two reasons. First, it was unnecessary in the sense that you could not apply any rights under international law with the assertion of the term international law; and secondly, the use of that term by the United States could be viewed as controversial by them when they approved the Constitution. I felt it was unnecessary because the Commonwealth would receive all rights given to a state.

Delegate Jesus Villagomez: Point of order. Before we go into further discussion on this matter, I think we should make a motion to adopt the entire draft Constitution for the purposes of discussion. I so moved for the adoption of the entire draft Constitution.

The motion was seconded and carried by voice vote.

Delegate Juan S. Demapan: I don't know if this is the right time for me to express my opinion, but, it is also very, very much time consuming for each one of us to review this entire draft of the Constitution. I may be late, but I would like to propose a means of making it easier for each one of us to review this proposed draft Constitution. I would like to propose that the original committees be assigned to review their particular provisions and when we reconvene tonight or tomorrow, it would be easier for each one of us to digest the full text of this proposed draft Constitution.

Delegate Ramon Villagomez: I don't think we will find any section in this draft Constitution that will require any extensive debate. I have read the entire Constitution twice and I have only one substantive question that require three grammatical questions. I don't think it would be necessary to return to the three Committees to review their particular provisions. I think we could get this done within an hour of the Convention's business.

President Guerrero: This entire draft Constitution is the property of the Convention now and I am sure that each Delegate is aware of all the provisions and amendments contained herein, since we have the opportunity to go through each one of them during the first and second reading of our Convention's business. This also include style changes as recommended by our consultants.

Delegate Diaz: I believe that we all had the chance to read the entire draft of our Constitution since we were given the time yesterday and last night. Also the final draft was presented and I don't find any inconsistency regarding the draft and/or final draft of the Constitution, except probably for a few typographical errors, but I would suggest that each Delegate do their reviewing here and now, because we have to allow ample time for the Print Shop to print the final version of the Constitution and also the Style Committee to complete their work. The time is now and not in a little while or later.

Floor Leader Rasa: Mr. President, I don't know why we get into the final adoption of the Constitution. The Constitution per se has been legally adopted. Should there be any objection, it should go on a reconsideration process. So, to adopt this Constitution which has already been adopted is a duplication of an earlier action that has been acted upon by this Convention.

Chairman Felipe Atalig: A very minor suggestion Mr. President. I was going over the Constitution of the United States and I would like to suggest to the Style Committee of our Constitution that the first three letters of our Preamble be in bold print as they were in the Preamble of the United States.

Delegate Igitol: I have a question on Article IV, Section 2, fourth line from the bottom, where it stated "...if no U.S. District Court for the Northern Mariana Islands is available..." do I sense the feeling of doubt that the U.S. Government will not establish a U.S. District Court?

Chairman Mafnas: The adjustment was made to meet with the concern voiced by Delegate Ramon Villagomez in an earlier session. I believed the consultants had mentioned to the members of this Convention that they could not be sure as to when the U.S. District Court will be created in the Commonwealth.

Mr. Willens: As Chairman Mafnas had explained why these changes were made, I am confident that there would be a U.S. District Court, but I would want to protect you, the Commonwealth, in case the court was not available immediately. That is the reason this language is here so as to make certain that your Commonwealth court system will have all the necessary jurisdiction it needs if a U.S. District Court is not created. Also, it was desirable to eliminate Section 4 which pertains to the U.S. District Court because it could appear to the U.S. that the Constitution was dictating what courts would be in the Commonwealth. Sections 2 and 3 showed that new language.

Delegate Olympio T. Borja: There had been some changes made to the draft Constitution but they appeared to be insignificant changes. As the legal consultants explained to us why these changes were made and what changes were made, I personally have reviewed the draft Constitution and have found no significant changes made since the provisions contained herein fall in line with our wishes to be incorporated into the Constitution.

Delegate Manny Tenorio: My question is on Article XI, Section 6(c), is there any significant change made?

Mr. Willens: No, there was no significant change made, only a change of words, but does not affect the language of the section.

Delegate Ramon Villagomez: I have been going through the book that our consultants have been using with regard to the language styles for our Constitution and I can't find anything under proviso, and as I recalled, from reading that book they are changing all the "provided, however" to "provided that". In our Constitution, I found that in three places you insert the phrase "provided however that", and I can point them out to you later.

Mr. Willens: I would like you to do that. I really didn't accept that particular view completely, we tried to change the phrase "provided, however" to "except" most of the time, but there were few occasions where we left the phrase "provided, however" because they are read better, but I am perfectly prepared to look at it again with you and I'd be glad to have your judgment on that.

Delegate Ramon Villagomez: On Article IX, Section 3(c), instead of having it read, "...unless special elections are provided...", I feel it would be best to say "...unless a special election is provided...", just a grammatical style change.

Mr. Willens: You read a point which I think is a substantive point. In our section-by-section analysis where we checked the view that the legislature cannot provide for a special election for a particular recall petition - that recall must have a legislative generally to permit special election for recall petitions, that is why the particular language is used. If you were to say "a special election" it would never be free to recall petitions.

Delegate Ramon Villagomez: Article IX, Section 1(d), as I recalled the last amendment we adopted on this require that an initiative petition that proposes local law shall become law by a two-thirds of the votes cast by qualified voters in that municipality. This is two-thirds of the persons of the senatorial district who are qualified to vote. The last amendment as I recalled stated two-thirds of the votes cast. Would you clarify this please?

Mr. Willens: I checked that out as you raised it with me and I checked with Delegate Diaz. If the Convention have that paragraph in front of them, I would appreciate your best judgment, it's Article IX, Section 1(d). It deals with initiative petition and the first sentence dealing with "...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." That was again made in the last discussion. The second sentence which Delegate Villagomez is directing our attention to, is in essence to two-thirds of the qualified voters, and it was my recollection that only the first sentence was changed and I went back to the summary journal and saw that Delegate Diaz raised this issue and I checked with him and he believes that this reflects what the Convention actually did. I agree with Delegate Villagomez that there is an inconsistency here which you have not have intended and if you want to--either our recollection is wrong or we can fix it now and make it consistent--depends on what you want to do.

Delegate Ramon Villagomez: I was the first one to make this amendment and my amendment changed only one part to make it consistent. Pete Ogo came back with another amendment that made the two consistent.

Mr. Willens: The summary journal reflects that Ogo's amendment was withdrawn because it did not change the language here. If you want to make it consistent, I would suggest and it is up to you to do it, and it could be done very easily. As it stands now, it requires a higher vote to approve an

Initiative for a local law, that does vary, a law--Commonwealth-wide, and I don't know if that is the interest of any municipality or island whatsoever, it is a very tough version as it is--two-thirds of the votes cast, a very high percentage; two-thirds of the qualified voters might mean 75 or 80% of the people who actually vote, if you don't get a very high turnout. So, it certainly would make sense to make these two provisions consistent.

Delegate Diaz: Since I was the mover of that particular motion, making that amendment, I would suggest that we make this consistent with each other rather than with the number of votes required to be cast.

Delegate Ramon Villagomez: I move that we changed the language in the second sentence of Article IX, Section 1(d) so that it will read, "An initiative petition that proposes a local law shall become law if approved by two-thirds of the votes cast by persons qualified to vote in that municipality."

Mr. Willens: All you have to do then is to insert three words in the second line of that sentence, insert "votes cast by" after the words "two-thirds of the". That would make it consistent with the first sentence of that subsection.

Delegate Torres: I would like to find out, if we adopt a provision or adopt provisions so far, can it be changed at a later date. The Convention or the Committee adopted "two-thirds of the votes cast" or "two-thirds of the registered voters". What effect would that have on our action this afternoon?

Mr. Willens: You are free to mark the document in any way that you see fit. Procedurally, it would be best I think, if the record show a motion to reconsider which brings it back on the floor by a majority vote and a motion to insert the word or words, and it complies with the three-fourth's rule. That would clearly demonstrate on the record that you have enacted the provision that you wanted regardless of what was done in the past.

Delegate Ramon Villagomez: I withdraw my earlier motion and will resubmit it at a later time. I move to suspend Rule 51 temporarily, which requires a one day notice for reconsideration.

Motion to suspend temporarily Rule 51 was defeated.

Chairman Felipe Atalig: I have a suggestion to make, Mr. President. The problem can be solved by directing the Secretary to check the record accurately as to when the discussion transpired since that seems to be the problem.

Delegate Castro: I would like to ask the same question as Delegate Torres. If the record shows that it should be vote cast, what will happen?

President Guerrero: If the record shows votes cast, then that is how we stand.

Delegate Castro: But the constitution says two-thirds, where would we stand - that is the question I am posing. I am a bit confused - I have amendment No. 96 and it says votes cast that is what is shown on the amendment.

(The Journal Clerk read the verbatim debate of amendment No. 96 as discussed on the 43rd day of the Convention's business.)

Delegate Maratita: The style changes I have on Article IX, Section 1(d) dated November 29, 1976, the correction read as follows:

"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. An initiative petition that proposes a local law shall become law if approved by two-thirds of the registered voters from the senatorial district who are qualified to vote."

That is the correction I have.

Delegate Ramon Villagomez: I withdraw my previous motion. I have one more question to pose, that is on Article XVIII, Section 2(a). After the question in that subsection which reads "Shall there be a constitutional convention to propose amendments to the Constitution?", would the legislature or the governor, in the event the legislature fails to act, submit this question to the voters? When I first read this, I got confused, and by the use of comma, I am sure this can be read clearer and more understandable. I suggest it be

read as follows:

"The legislature, or the governor, in the event the legislature fails to act...."

Mr. Willens: I accept that, the insertion of the governor. There is a fallback which was prompted by some uncertainty as to how you would implement this and I think this is a useful thing to do.

President Guerrero: I am also on the same Article that I would like to call the attention of the Delegates--on subsection (d) regarding the numbers of delegates to the Convention, as everyone knows, we have been substantially diminished the number of the larger house of our legislature. What is the feeling of this Delegation? We only have 14 members--is that the consensus of this Delegation?

Delegate Ramon Villagomez: This section is dealing with only one small part of the Constitution and not the whole Constitution which requires a large Convention. Dealing with a small part or section of the Constitution and not the drafting of the whole Constitution does not require a large Convention.

Mr. Willens: I read from the Guam Paper that the Guam Constitutional Convention would have 40 delegates. Conventions usually are involved with this number of people and in the States the number of people involved in a Constitutional Convention are usually larger because they represent more people. It is true as Delegate Villagomez had said, that a Convention at a later time will deal with only one or two problems of a Constitution, and usually if you are dealing with only one or two problems, you use one of the techniques to change the Constitution, legislative initiative or popular initiative and often a Constitutional Convention might be a thorough drawing review of this--20, 30 or 50 years from now. My question is whether or not you want to limit the people in the legislature next time around--it might be desirable to strike this provision which will make them free to create a convention of any size they thought is appropriate at the time or if you do want to impose some ceiling on it, you could say equal to the number of members of both houses totally.

Delegate Juan D.G. Damapan: My main concern here is that I want to proceed passage of this Constitution for the Northern Marianas citizens. If such provision would block approval of this Constitution, Mr. President and fellow Delegates, I want the record to show that from the beginning till the very last day of this Convention, I still opposed such provision for the fact that such provision was not treated to equal protection for the majority as well as for the minority. I see no reason Mr. President, why our good Carolinian Community will have to identify themselves as a minority group, while we are here as one united people.

President Guerrero: The Chair has also distributed copies of comments received regarding the same matter. I am sure every Delegate has a copy of the comments.

Chairman Felipe Atalig: I am sure the consultant had made it clear to the Convention regarding the wording of Article III, Section 18, and I do wish to elaborate further on this. I would like to call the attention of the Convention to Article I, Section 3(n)--this may not be a big concern for the Convention, but I am just wondering whether we should include the words "no warrants shall be issued" or some commas for a matter of clarification on that section.

Mr. Willens: The general procedure we follow as a matter of style is that the fewer commas used, the better it would be. I don't see any problem of interpreting Section 3(a) which is under "Search and Seizure". I don't think it is very poetic, but I am sure it is understood and said its intention in a straight forward way.

Delegate Torres: On Article II, Section 4(a), would there be a problem regarding the Northern Islands with respect to the language contiguous and compact?

Mr. Willens: You will notice in the concluding phrase of the sentence, that it modified both portions of the sentence, except maybe permitted by the separate islands and distribution of population in the Commonwealth. Even if it doesn't, compact and contiguous is a legal requirement only to the extent that it conforms with the facts of life. We cannot moved islands together--islands will be considered a compacting contiguous. I don't think any legal requirement of compacting contiguous district would prevent us from including the Northern Islands either as a district among themselves or attach on to a district in Saipan. The alternative conclusion would be even more from a legal standpoint

and that would be to try to give the Northern Islands a single representative at a time when they have a very little population.

Delegate Torres: My next question on the same Article is, have we reduced the age limitation for membership in the legislature? What are the age requirements now, I am quite confused.

Mr. Willens: When the age requirement for the Senate was reduced to 25 years, the House went down to 21 years.

Delegate Torres: I was insured that when Delegate Villagomez recommended a 2-1-1, he also included a 12-1-1, he also included a limitation in this House. I want to find out the status of all these, because when this was amended, the 12-1-1 ratio was strongly recommended and I am at a lost with all the many changes coming in.

President Guerrero: At the time he made the amendment, he recommended that the limitation be set at 20 members maximum.

Delegate Torres: My last question is on Article II, Section 2(c), I supposed there is a typographical error and should read "in which" and not "on which".

Chairman Mafnas: On the same Article, Article II, Section 4(b), I would like to direct this question to our legal consultant. What if the Commonwealth Court of Appeals was not created nor the United States does not provide us with the U.S. District Court, I failed to see a provision whereby the Commonwealth Trial Court would assume jurisdiction in apportionment. Can I be enlightened?

Mr. Willens: I see your point Chairman Mafnas. My view in rewriting Section 4 to make it clear that if there were no U.S. District Court functioning at the time the Commonwealth began to function, that the legislature would create from the outset a Commonwealth Appeals Court--they would have to do that. I do not believe the contingency you have identified could occur, because if there is a U.S. District Court available it would require action by the Commonwealth Legislature in its very first week of operation to create a legal system which will include a Commonwealth Appeals Court.

Delegate Mafnas: On the same line of thinking, under the Judiciary Branch, Section 3, it states "The legislature may establish a Commonwealth Appeals Court." The word "may" does not failed the legislature to create one.

Mr. Willens: That is correct and the reason it was permissive was because we did not want the legislature to create an Appeals Court until at least five years have passed. And we did not want a mandate to create a court after five years have passed because we would want to look at the circumstances if the people's needs were satisfied by the United States District Court serving as a United States Appeals Court. The language is permissive but as you say, the Legislature would have to exercise jurisdiction to create an Appeals Court if the United States District Court is not in existence upon the effective date of the Commonwealth government's beginning.

Delegate Maratita: On Article I, Section 10, "Privacy", the last phrase "...compelling government interest." Why the word government has been eliminated?

Mr. Willens: There was no official amendment to that, we have given each delegate the first half of the Section-by-Section Analysis where it would be necessary to read it, we hope to have the remainder of the Analysis sometime this evening. The reason I am referring you to the Analysis is that, there is discussion of this section in the Analysis beginning on page 28, and it emphasizes that there must be a government or public interest before intrusion. This section does give a right of privacy against the intrusion by private person as well as government agency, and one thing about this provision, I think was overlook during the debate, is that without this section, you would not have a constitutional right to privacy. This creates a right to privacy in the Marianas Commonwealth, which does not exist under the Common Law, and which does not exist in the United States. It is an extension of the rights here and the clause "...except upon a showing of compelling interest.", is explained on page 30 of the Section-by-Section Analysis and it uses the term government interest and also public purpose, which means that the defendant whose privacy is being evaded, a public purpose has to be shown which advances the health and safety of the community. The term public purpose means to help protect the need of the people and to permit the dissemination of public information.

Chairman Mafnan: I raised a question on Section 4(j) of the same Article, whereby it states persons under 18 years of age shall be protected in criminal judicial proceedings. My question is, does that section necessarily establish that the maturity age would be 18 years?

Mr. Willens: No, it does not, and we discuss that on page 20 of the Section-By-Section Analysis and let me read a paragraph from that section.

"The legislature may elect to spell out the procedures whereby this constitutional provision can be implemented, such as a comprehensive juvenile delinquency law. This section does not prevent the legislature from directing that certain offenders who are under the age of 18 may be tried as adults in specified circumstances."

Delegate Pedro Atalig: On Article III, Section 15, I was wondering if there is a better word than "reallocate or allocation of offices" that could be used in place of these words?

Mr. Willens: Certainly, a number of words come to mind and can be used if the Convention wishes to do so, such as "assign" and "reassign".

Delegate Diaz: On Article XVII, "Oath of Office", I think there is a typographical error within the version of the oath which reads "...Covenant To Establish...", is it proper or not?

Delegate Magdalena Camacho: It would be "un-Covenant" to use a small "t".

Delegate D. Castro: I would like to pose a question regarding Article XVIII, Section 2(d). We had discussed this Section earlier and then moved on to something else. Are we going to leave this Section as it is or take further action?

President Guerrero: I would like to ask the indulgence of this Convention to focus their attention to that particular subsection.

Delegate Ramon Villagomez: I moved to delete Article XVIII, Section 2(d) in its entirety.

Delegate Magdalena Camacho: Can we do that, delete the entire subsection?

President Guerrero: I would like to get the consensus of this Convention, whether we could delete it in its entirety or combine the number of both houses to equal the number of members for the convention.

Delegate Jesus Villagomez: If there is no objection, I suggest to delete the phrase "the larger house of" to read "equal to the number of the members of the legislature."

There were some informal discussion among the Delegates.

Delegate Jesus Villagomez: I moved to change the wording of Section 2(d) from "equal to the number of members of the larger house of the legislature" to "equal to the number of members of the legislature."

There being no objection, the Convention passed the amendment unanimously by roll call vote. There were 29 affirmative votes.

Article XVIII, Section 2(d) passed unanimously, as amended.

Delegate Juan DLG. Demapan: Point of privilege. I would like to speak with regard to Section 18 of Article III, "Executive Assistant for Carolinian Affairs."

"Mr. President and fellow Delegates:

"I wholeheartedly respect and do sympathized with the intention of the Proposed Amendment No. 75, which is to be incorporated under Section 18, but in all fairness regardless of the Chamorro and the Carolinian communities, I feel obligated to register my strong feelings on this subject.

"Mr. President, if such section is acceptable to this Constitution Convention then this is no reason why our Constitution should not reflect the views of every dissident or disgruntled person to be incorporated into the Constitution.

"Mr. President, one man's crazy ideas are as good as another's and should be

given equal consideration if we are to listen to the irregular ideas of everyone who wants these views to be reflected in the Constitution. Then, I do not have to call to your attention for the final result. It will be a joke; a laughing stock.

"Mr. President, it is my strong personal feeling that Section 18, of the Draft Constitution will merely jeopardize future elective position for all Carolinian descendant because of their persistents in maintaining the concept of minority and majority instead of the concept as citizens of the Northern Marianas.

"Mr. President, this shortsightedness or oversight in actual sense will continue to perpetuate continue ethnic awareness, ill-feelings which will not be advantageous to the future Commonwealth Government of the Northern Marianas.

"Mr. President, it is very hard to believe why should the leaders of the United Carolinian Association ought to identify themselves as a minority group. What about those poor and ordinary United Chamorro Association, should we allow to discriminate them or should this Convention deprive the same rights as what have been proposed under Section 18, of the Draft Constitution. At the outset, Mr. President and distinguished Delegates, I am afraid that upon the final draft of our constitution, this Convention and the majority citizens of the Northern Marianas will not vote in support of the Draft Constitution. It is my gravest concern to respectfully ask the Delegate members as a whole to seriously come up with an acceptable decision for the best and equal interest of all Northern Marianas citizens.

"Please permit me now to shed some ideas into the logic of my argument. First of all, the aforementioned Proposed Amendment No. 75 is overly protective to the minority. By allowing such a grandiose and luxurious position for minority representation, we are totally discriminating against the majority. Mr. President and fellow Delegates, let us ask ourselves truthfully the following question. Is it absolutely necessary and economically feasible to allow such a position with no specific functional responsibility?

"Mr. President, we often heard the saying of cutting down cost to our future government. This specific Proposed Amendment is not in line with the admonition of maximizing efficiency and at the same time minimizing cost. In all practical political realities, Section 18 of the final draft constitution may gain the support of those delegates who are anxious to obtain the confidence of the Carolinian people for the sake of future election and not because they are thinking to have an objective constitution fair to all people of the Northern Marianas. The minorities will surely have a role in the government. Both in the legislative and executive branch, which I am sure they will.

"Mr. President, political rewards is a common practice within any democratic society. The Marianas is no exception and I feel that we are kidding ourselves to entertain such an extravagant idea. I am 1,000% sure that the ideas as incorporated in Section 18 is an idea dreamt-up by the elite, so-called United Carolinian Leadership without proper consultation with the general Carolinian Community.

"Mr. President, this is a purely political gimmick invented by these leadership in order to make sure that one of them will be appointed in that position. I question the rational behind under Section 18, subsection (a), where it provides that 'whoever is appointed must be ACCEPTABLE, to the Carolinian community.' This is purely selfish, downright discriminatory, disheartening, and tactic which will continue to disharmonize our beloved Carolinian and Chamorro as brothers and sisters so that these United Carolinian Association Leadership will continue to be in the newspaper front page.

"In conclusion, Mr. President and fellow Delegates, I am very pleased to reiterate that if such an outlined issue proposal is to be allowed by this Constitutional Convention, I am sure that our people will not vote in favor of the final Draft Constitution and maybe as well as the United States Congress and the United States Government.

"Thank you."

Delegate Juan S. Demapan: On Article VIII, Section 1, does it mean that we have to have a general election every year?

Mr. Willens: No, it does not mean that. It means that there will be an election only when terms of elected officials expire, or when necessary. The Section-By-Section Analysis clearly defines the meaning of this section.

Delegate Juan S. Demapan: My next question is on Article II, Section 2(b), relating

to election of senators. Is it possible that only one senator be elected in any given election?

Mr. Willens: It is clear as explained in the Section-By-Section Analysis, that senators serve four-year terms. Their terms varied so that all nine senators are not elected in one year, or at the same time.

Delegate Juan S. Demapan: I am wondering what will happen to the Northern Islands at the time they have 1,000 people. Could they elect 1 senator, too?

Mr. Willens: At the time they qualify to elect their own senator, they will be electing two senators, while the other senatorial districts in the Northern Marianas will be electing one each.

Motion to adopt the entire Draft Constitution as amended, carried by roll call vote. The votes were as follows:

YES: Delegates D. Atalig, F. Atalig, P. Atalig, Attao, Ayuyu, Benavente, J. Borja, O. T. Borja, A. Camacho, M. Camacho, Dela Cruz, J. S. Demapan, Diaz, Fitial, H. Guerrero, L. Guerrero, Igitol, Limes, Mafnas, Maratita, Palacios, J. P. Tenorio, M. Tenorio, J. Villagomez, and R. Villagomez. (25 votes)

NO: Delegates Castro, Juan DLG. Demapan, and King. (3 votes)

ABSTAIN: Delegates Calvo, C. Camacho, V. Manglona and Torres (4 votes)

(As per President Guerrero's earlier ruling, the 4 abstention votes were counted as affirmative, making the final count 29 affirmative and 3 negative.)

(12) GENERAL ORDERS OF THE DAY - None

(13) MISCELLANEOUS

Delegate Palacios: I have a short remark here that I would like to submit and have it inserted into the Journal of the last day.

Delegate Juan P. Tenorio: I have never given a speech during the Convention, and I ask that I be allowed to give one at this time.

"I abhorred the illogical rhetorical rhapsody with regard to Section 18, and I respect mankind too much, and especially the people of the Marianas, to question their integrity in making a decision for themselves."

Delegate Diaz: I would like to make a short, short remark regarding my vote on the whole package of the final draft of the Constitution.

"I would like the record to show that I voted yes, that as human beings we are bound to make mistakes, because we are not perfect. From the day we are born to the very last day of our destiny, we make mistakes because we are not born perfect people. I have tried my very best to the maximum of my ability, and I felt I have contributed much to that extent.

"Thank you."

Delegate Calvo: I wish to give a speech on the very last day of the Convention and I would also like to remind the Delegates that we still have to have the last roll call on the 50th day of our session.

President Guerrero: I would also like to announce that the final portion of the Analysis would be distributed tomorrow and I would also like to ask the indulgence of all the Delegates to be present. I would also like to suggest that all Delegates who would like to give speeches may do so on the last day of our session.

Delegate Jesus Villagomez: Is it possible to obtain copies of the final portion of the Analysis later today so that we can have ample time to review it before our next session?

Mr. Willens: I don't think that is possible, it is a 250 page document and is straining the xerox machine and secretarial capabilities. I would like to have the Analysis, however, adopted in general by the Convention as a fair statement of the

collective intention of the Convention, even though it doesn't perhaps reflect everyone's views. It would be helpful to defend the document and help with interpretation in the future. We are doing all we can, the secretaries and the xerox operator to get the final portion out as soon as possible, but as I say, it is impossible to have the final portion distributed later during the day. We will for sure, try to get them out early tomorrow morning.

Delegate Jesus Villagomez: I suggest that perhaps the Convention would recess now and meet tomorrow afternoon at two o'clock to discuss the final portion of the Analysis. If the final portion would be ready in the morning, those who wish to study individually the final portion may do so, and have a general discussion on the Analysis in the afternoon when we meet. I so moved.

Delegate Ftial: I would like to call the attention of all the Delegates that a letter from Senator Herman R. Guerrero was distributed to every Delegate and this letter was not supposed to be distributed because Senator Guerrero discovered that he had made a mistake about Section 18 of Article III. I received the message from Senator Guerrero, and I would like to ask the Delegates to disregard this communication.

President Guerrero: Thank you for the information Delegate Ftial. I also met with Senator Guerrero and he requested that his letter be withdrawn as a communication to the Convention. However, by the time I met with Senator Guerrero, it was too late because I have given instruction already to have the letter duplicated and distributed to the Delegates. My apologies to Senator Guerrero and I ask the Delegates to disregard this communication.


Delegate Ramon Villagomez: I would like the record to show the four general areas where I am dissatisfied with the Constitution. They are: (1) salary of the legislators; (2) the requirement of two municipalities to initiate or pass a measure; (3) the exclusive power of the senate to confirm appointments; and (4) the Executive Assistant for Carolinian Affairs. Thank you.

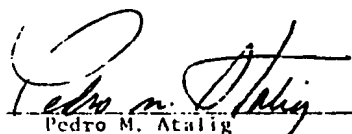
Delegate Jesus Villagomez: I move that the Convention recess until two o'clock tomorrow afternoon.

The motion was seconded and carried by voice vote.

The Convention recessed at 4:32 p.m.

APPROVED:


Lorenzo I. Guerrero, President
Northern Marianas Constitutional
Convention


Pedro M. Atalig
Convention Secretary