

CONCERN

REMARKS OF HOWARD P. WILLENS  
BEFORE THE CLOSING SESSION  
OF THE  
NORTHERN MARIANAS CONSTITUTIONAL CONVENTION  
DECEMBER 6, 1976

Mr. President and Delegates:

I rise for the last time as your counsel to speak my mind. I do so on behalf of my partners, especially Deanne Siemer, and my associates - Paul Koffsky, Neal Solomon, Mark Weisburd and Bob Major. We thank you for the opportunity to be of service and to share this extraordinary experience with you. You have kept us busy and free of boredom during these past 50 days, to say the least. What more can a lawyer ask?

We congratulate you for successfully completing your assignment in 50 consecutive days. No constitution in recent United States history was ever prepared in such a short period of time. It was possible only because of your dedication to the work and your commitment to finish. I hope you remember these hectic days next year as your neighbors on Guam try to write a constitution over the seemingly leisurely period of 120 days.

But you have done more than just produce a Constitution in 50 days. You have produced a great Constitution! Let me tell you why -- as your friend and counselor. Let me give you ten good reasons why this Constitution should be overwhelmingly approved by the people of the Northern Mariana Islands.

1) The Commonwealth Constitution complies fully with the Covenant and the U. S. Constitution.

With respect to the Covenant, you have accepted the limitations it imposed upon your decisions. You have done so with grace and good humor - even though there are some provisions of the Covenant that many of you disagree with.

With respect to the U.S. Constitution, you have listened to our advice carefully and have acted accordingly. You have resisted the temptation to burden your own Constitution with provisions of questionable legal status under the U.S. Constitution -- despite the urgings of many special interest groups that you do so.

If there are lawyers or others in the Northern Marianas or the United States who feel that this document does not comply fully with the Covenant and the U. S. Constitution, I urge them to come forward, to state their views *clearly, openly, and to hear our defense of your work.* I and my colleagues would welcome such a debate.

2) The Commonwealth Constitution creates institutions of government that can serve the people effectively, efficiently and economically.

The legislature, executive and judicial branches of government created in your Constitution are relatively simple and uncluttered. They impose no unnecessary restrictions on the exercise of legislative, executive and judicial power.

In drafting these provisions, you have learned from past errors in other parts of the United States and have incorporated the best of the contemporary learning in the field. At the same time, you have included

provisions in these articles that reflect your special needs and circumstances, just as you have created some institutions such as the Marianas Public Land Corporation unique to the Commonwealth.

3) The Commonwealth Constitution protects the civil liberties of the people.

The Constitution that you have prepared does more than just incorporate the traditional guarantees found in the U.S. Constitution -- essential as these may be. The Commonwealth Constitution articulates new and important protections -- against electronic eavesdropping, capital punishment, invasions of privacy, destruction of the environment and callous treatment of the young. Your Constitution is a humane, generous and creative document in these respects, and you are entitled to be proud of it.

4) The Commonwealth Constitution protects the natural resources of the Northern Marianas.

The provisions of the Constitution dealing with land alienation, public lands and uninhabited islands reflect an appreciation of your island environment and your limited natural resources. You will be criticized for these provisions, which will be challenged as unconstitutional or timid or both. I hope you will defend these provisions with pride. They reveal a desire to learn from the mistakes of others and a recognition that short-term economic gains may bring long-term social and cultural losses.

5) The Commonwealth Constitution recognizes the financial limitations of the Northern Marianas.

The Constitution throughout reflects your awareness that the new Commonwealth has limited funds and must use those wisely. Your decisions regarding the salaries of your future government officials, the size of the

lower house, the use of the U.S. District Court for local judicial matters, the elimination of existing agencies of local government -- all demonstrate your sensitivity to the problem and your commitment to the goal of eventual self-sufficiency:

6) The Commonwealth Constitution respects the interests and needs of the separate islands in the Northern Marianas.

How best to reconcile the competing demands of the separate islands has been an issue that has been with you since the opening day of this Convention. The Constitution reflects a series of compromises on this issue which can be defended, individually or together. This is so with respect to your decisions regarding:

- the size of the senate;
- the powers of the senate;
- the powers of the mayors;
- the control of public services by the governor;
- the commitment to equitable and decentralized services;
- special guarantees to Rota and Tinian regarding decentralized services; and
- the size of the lower house.

There will be those on Saipan who will say that you gave too much power to Rota and Tinian. There will be those on Rota and Tinian who will say that they got too little power. To both groups of critics I suggest you say: we did our best on each of these issues, we believe that the government institutions defined by this Constitution are workable, and we invite the critics to pitch in and try to make the new government a success.

7) The Commonwealth Constitution respects the needs and aspirations of the Carolinian minority.

The Consittution recognizes that there is a Carolinian minority on Saipan that complains of past discrimination and fears future discrimination. Whether these fears are real or imaginary is really not important. Contrary to some criticisms already voiced, the creation of an executive assistant to the governor to address Carolinian concerns does not represent any admission that there has been discrimination against the Carolinians in the past. This constitutional provision offers a means to provide assurances of non-discrimination, to substitute facts for fears, to guarantee participation in the government to a valued part of the Northern Marianas family. Is it not better to acknowledge this concern and provide an institutionalized way to deal with it than to deny that any problem exists?

8) The Commonwealth Constitution respects the sovereignty of the people and the imperfections of their representatives.

Your provisions on initiative, referendum and recall reflect your awareness that the people as a whole ultimately must judge the performance of their elected officials. The same is true of the constitutional provisions dealing with constitutional amendment. At the same time, you have recognized the frailties of individuals -- as in the provisions for a public auditor, limiting legislative salary increases, and the Marianas Public Land Trust.

9) The Commonwealth Constitution provides a basis for growth and change in the future.

You have produced a document that is truly limited to

fundamentals -- as defined by this Convention in light of your perception of the needs and hopes of your people. It is a short document -- a little over 11,000 words in length. By modern standards, this is very short indeed. In fact, it is shorter than two of the most highly regarded constitutions in recent American History -- those of Hawaii with 15,000 words and Alaska with 12,000 words. This means that you have not unduly encumbered your future government but have provided a Constitution which can endure and retain vitality in the decades ahead.

10) The Commonwealth Constitution can be and should be approved promptly by the United States.

This, after all, was your principal objective -- to produce a document which, for all these reasons, will be approved by the United States. I am optimistic that the United States will do so - but only after the people of the Northern Marianas have expressed their views about the Constitution in a referendum. It would be a tragedy after all this effort if this Constitution is not approved -- causing still more delay in realizing the political and economic benefits of the Covenant.

These are the ten reasons I would give in support of the Constitution. I hope you share my views and will commit yourselves to the political education job ahead. We wish you every good fortune.