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October 22, 1976

REPORT TO THE CONVENTION OF THE
COMMITTEE ON GOVERNMENTAL INSTITUTIONS

Subject: Committee Recommendation Number 1: Washington Representative

The Committee on Governmental Institutions recommends that the Convention sitting as a Committee of the Whole adopt in principle the attached constitutional provisions with respect to a resident representative to the United States (Washington representative) to represent the people of the Commonwealth.

The Committee believes that the interests of the Northern Marianas people would be well served by creating the office of Washington representative in the Commonwealth Constitution. The Committee's proposed article provides in five sections for the office of Washington representative and specifies his duties, method of selection, term of office, qualifications, and compensation.

The first section of the proposed article establishes the position of representative, provides that he shall be elected, and requires the governor to certify his selection promptly.^{1/}

The second section provides that the representative has a term of two years. This period could, however, be

^{1/} The Covenant requires such certification. COVENANT, art. IX, § 901.

lengthened to no more than four years if the people so direct in an initiative.

Section 3 requires that candidates for election as representative possess certain qualifications. First, candidates must be qualified voters. Second, the representative must be a United States citizen or national. Third, the representative must be at least 30 years old. Fourth, only persons domiciled and residing in the Northern Marianas for ten years immediately preceding election day would be eligible to run for representative. Fifth, a person convicted of a felony in the Commonwealth or in the United States who is not a recipient of a full pardon would be precluded from candidacy.

Section 4 requires the representative to report annually to the governor and legislature of the Commonwealth regarding the performance of his official duties.

Section 5 requires the legislature to afford adequate compensation to the representative. The section also provides that the representative's salary may not be changed during his term of office.

The Committee's reasons for recommending these provisions are detailed below:

1. Constitutional Treatment. The Committee believes that the office of representative warrants constitutional treatment. Such a Washington representative could perform many important tasks. These would include urging

United States officials (both executive and legislative) to extend the provisions of desirable legislation to the Northern Marianas and to exclude the Commonwealth from the scope of undesirable legislation. In addition, the representative could seek the expansion of federal benefits afforded the Commonwealth. The representative would also have the duty of monitoring the political relationship between the United States and the Commonwealth.

Because of the importance of the office, the Committee desires to ensure that it is promptly created. Merely authorizing the legislature to create the position would not accomplish this objective, since political pressures or other extraneous considerations might interfere with the formation of the office. Moreover, as an integral element in the structure of the Commonwealth government, the office of Washington representative should be dignified by Constitutional authorization.

2. Duties. The representative will be serving in Washington as the representative of the Commonwealth. The Committee feels that it is appropriate to require the Washington representative to report annually to the governor and the legislature. This report should summarize his actions on behalf of the Commonwealth during the preceding year and identify any major questions which might require attention during the next year.

The draft constitutional language propose' by the Committee provides for the representative to represent the Commonwealth in the United States and to perform such related duties as are provided by law. The Committee rejected the approach of trying to specify all the duties of the representative, concluding that any effort at specificity might be limiting and therefore undesirable. The general language endorsed by the Committee would afford the Commonwealth legislature flexibility in defining the functions of the representative and in shaping those functions to the changing needs of the Commonwealth. Such an approach has an additional advantage: if the Congress decides in the future to grant the Commonwealth a non-voting delegate in the United States House of Representatives, the representative could assume that responsibility without the necessity of amending the Constitution.

3. Method of Selection. The Committee recommends that the representative be popularly elected. The representative's principal obligation will be to communicate the needs and views of the Marianas people to the federal government. The Committee believes that an official directly elected by the people would respond with greater sensitivity to their wishes. The Committee also concluded that an elected representative would command greater respect among members of the United States Congress than would an appointed

representative. The representative's popular mandate, therefore, would contribute to his understanding of the problems of the Northern Marianas, his capacity to translate that understanding into action by the federal government, and achievement of the objective of eventually having a non-voting delegate in the United States Congress.

4. Term of Office. The Committee is convinced that a two-year term of office would best enable the people to monitor the representative's performance. A term of this duration would comport with the tenure granted members of, and non-voting delegates to, the United States House of Representatives.

The Committee recognizes, however, that a longer term might prove to be more appropriate after some initial experience with the office. In order to provide flexibility, the attached article would permit the voters by initiative to increase the representative's term to a four-year period.

The Committee recommends against restricting the number of terms which the representative can serve. This recommendation reflects the Committee's desire not to deprive the Commonwealth of the services of an effective representative and its awareness of the importance of seniority in the official life of the federal government.

5. Qualifications. The Committee is persuaded that requiring the representative to be at least 30 years of age will increase the likelihood that the Northern Marianas will obtain a mature and knowledgeable advocate in Washington. The Committee does not believe that such a minimum age limitation would seriously limit the Commonwealth's ability to elect a highly qualified representative. The Committee does, however, believe that setting a maximum age (such as 65) above which no person would be eligible to run for representative might have that effect.

Providing that the representative must be domiciled in and a resident of the Commonwealth for ten years immediately before his election would, in the Committee's view, ensure that the representative will be thoroughly familiar with the concerns of the Northern Marianas people. The Committee further recommends that only qualified Northern Marianas voters be eligible for election as Washington representative.

6. Compensation. The Committee believes that it is necessary to guarantee the Washington representative adequate compensation in order to attract qualified candidates for the office. The Committee further believes that the representative's salary should not be changed during his or her term of office, so as to insulate the representative from improper political pressures.

7. Open Issues. The Committee is still considering some aspects of this proposed provision. Four matters are outstanding at the moment:

a) The Committee is awaiting a report by counsel regarding the validity of a possible requirement that the representative be born in the Northern Marianas.

b) The Committee has postponed any decision concerning the details of the initiative that would determine whether to increase the length of the representative's term. The Committee believes that these details should conform, if possible, to the procedures for initiative being considered by another committee of the Convention.

c) The Committee also is deferring decision on the mechanisms (recall or impeachment) available to remove an unsatisfactory representative until these subjects can be explored in more detail with reference to all officials of the executive, legislative and judicial branches of government.

d) The Committee has delayed recommending how a vacancy in the office of Washington representative should be filled. The Committee prefers to resolve this issue when it decides on proposed means of filling vacancies in offices in the executive and legislative branches.

Notwithstanding these outstanding issues, the Committee believes that the attached draft constitutional language is ready for consideration by the Convention. We recommend that it be adopted in principle by the Convention.

Respectfully submitted,

/s/ Jose P. Mafnas, Chairman

/s/ Prudencio Manglona, Vice Chairman

/s/ Gregorio Calvo

/s/ David Atalig

/s/ Benjamin Manglona

/s/ Pedro Igitol

/s/ Jose R. Cruz

/s/ Joaquin Torres

/s/ Olympio T. Borja

/s/ Herman Q. Guerrero

/s/ David Q. Maratita

/s/ Antonio M. Camacho

/s/ Vicente T. Attao

ARTICLE

Washington Representative

Section 1: Washington Representative. A Washington representative shall be elected to represent the Commonwealth in the United States and to perform such related duties as are provided by law. The governor shall certify promptly the representative's election by providing a certificate of selection to the United States Department of State and to the representative.

Section 2: Term of Office. The term of office of the representative shall be two (2) years unless it is increased to no more than four (4) years by popular initiative pursuant to Article ___ of this Constitution.

Section 3: Qualifications. The representative shall be a qualified voter of the Commonwealth, a United States citizen or national, at least 30 years of age, domiciled in the Commonwealth, and a resident of the Commonwealth for at least ten (10) years preceding his election. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States shall be eligible for this office unless he has received a full pardon.

Section 4: Annual Report. The representative shall submit a written report by January 15 of each year to the governor and legislature of the Commonwealth. Such report shall summarize the representative's official activities on

behalf of the Commonwealth during the preceding year and identify any problems requiring the attention of the Commonwealth government and the Northern Marianas people.

Section 5: Compensation. The legislature shall provide for the appropriate compensation of the representative. Such compensation shall neither be increased nor diminished during the representative's term of office.

October 27, 1976

REPORT TO THE CONVENTION OF THE COMMITTEE
ON GOVERNMENTAL INSTITUTIONS

Subject: Committee Recommendation Number 2: The Judicial
Branch of Government

The Committee on Governmental Institutions recommends that the Convention sitting as a Committee of the Whole adopt in principle the attached constitutional provisions with respect to the judicial branch of government.

The Committee believes that the Commonwealth of the Northern Mariana Islands should have a Commonwealth court system to exercise jurisdiction over all local criminal and civil matters to the same extent as a state within the United States. For the first five (5) years of the new Commonwealth, however, the Committee believes that only a local trial court should be created with defined jurisdiction, leaving all other judicial matters (including appeals) to the United States District Court for the Northern Mariana Islands pursuant to the provisions of article IV, section 402 of the Covenant. Under the Committee's recommendation, the legislature would have the power to increase the jurisdiction of the local courts after the Constitution has been in effect for five (5) years. The Committee's recommended constitutional language also deals with the structure of the judicial branch and with the selection, tenure, qualifications, compensation, removal, discipline, and administrative duties of the judges who will serve the court system. These suggested constitutional

provisions are contained in an article of nine sections. The principal issues considered by the Committee and the reasons underlying the Committee's recommended draft constitutional provisions are discussed below.

Section 1: Judicial Power. This section authorizes the legislature to create the judicial branch of the new Commonwealth consisting of such trial and appeals courts as the legislature deems necessary. It makes clear that the ultimate objective of this Constitutional article is to vest judicial power over all local civil and criminal matters in a unified Judiciary of the Northern Mariana Islands. Section 1 provides a flexible grant of authority which will enable the Commonwealth courts to exercise all the judicial power available to the Commonwealth under the Covenant, which is virtually identical to that available to a state within the United States.

Section 2: Commonwealth Trial Court. The second section requires the legislature to create a Commonwealth trial court and to provide it with appropriate supporting personnel. That court would hear all land matters regardless of the amount involved and all civil actions except those in which the amount in controversy exceeds \$5,000 in value to the defendant. The court's jurisdiction would extend also to all criminal cases in which the defendant, if convicted, is liable to a fine which is not more than \$5,000 or imprisonment for a term which is not longer than five (5) years. After five (5) years have elapsed from the date of

the ratification of the Constitution, the legislature would have the authority to increase the jurisdiction of the Commonwealth trial court.

This section and the following two sections of the draft article reflect the Committee's belief that the Commonwealth would best be served by starting out with a Commonwealth court system with limited jurisdiction which could be increased by the legislature over time as the Commonwealth's circumstances and resources permit. The Committee attaches a high priority to the ultimate objective of a comprehensive Commonwealth judiciary, staffed with well-trained and experienced local residents able to dispense justice fairly and to earn thereby the respect of the people for their learning, objectivity and sensitivity to the needs of the Northern Marianas people. Such a judicial branch is an important component of the self-government available to the people under the Covenant. The Committee concluded, however, that it would be impractical to require in the Constitution that such a comprehensive Commonwealth court system be created immediately upon ratification of the Constitution.

First, the Committee is concerned about the limited number of experienced Northern Marianas lawyers available to serve on such Commonwealth courts. Although it may be necessary to employ some non-Marianas lawyers as judges at the outset, the Committee considers this as a transitional need only and

wishes to minimize the number of non-Marianas lawyers serving as judges in Commonwealth courts. The Committee believes that the citizens of the Commonwealth place a high value on judicial competence and experience and that it is particularly important that the first years of experience with a Commonwealth court system encourage the people to place their confidence in the new judicial system. The Committee believes that its proposal advances these objectives.

Second, the Committee is concerned about reducing the costs to be borne by the Commonwealth taxpayers. A fully developed local judiciary would be expensive to support given the limited population in the Commonwealth. By permitting the United States District Court for the Northern Mariana Islands to conduct some trials and all appeals involving local matters at the outset, the Constitution would produce substantial monetary savings for the Marianas people. Since the federal government will fund the district court, the Committee concluded that this opportunity to conserve the limited financial resources available to the Commonwealth should not be bypassed. It is the Committee's view that some portion of such savings should be used by the legislature to advance the training of local lawyers.

Third, the Committee's recommendation also reflects the generally high reputation of the United States judiciary and the flexibility available to the Commonwealth under the Covenant. If the Committee did not believe that the people of the Northern Marianas would respect the quality of justice dispensed by the Federal courts, we would not advance this

recommendation for consideration by the Convention. In the Committee's opinion, the Commonwealth has an unusual opportunity to use the Federal District Court for some local civil and criminal cases during the early years of the Commonwealth or longer if the legislature decides that the best interests of the people so dictate.

It is for these reasons that section 2 requires the creation of a Commonwealth trial court but limits its jurisdiction for five years. The definition of jurisdiction is admittedly arbitrary, but the Committee concluded it struck an appropriate balance between the available extremes of giving the Commonwealth court too little to do or too much to do. The proposed jurisdiction of the Commonwealth trial court is greater than that currently possessed by the district courts under the TTPI court system. The Committee rejected the alternative of giving the trial court criminal jurisdiction for misdemeanors only on the grounds that the authority over more serious offenses might attract more qualified persons to the position and more experience with a local judiciary would be acquired in a shorter period of time.

Although section 2 refers to a Commonwealth trial court, the Committee contemplates that as many judges and supporting personnel would be appointed to this court as are necessary to serve the needs of the Commonwealth. In order to make certain that civil and criminal cases arising

on Rota and Tinian are promptly considered, the proposed section requires the designation of at least one (1) full-time judge to hear cases on each of these islands.

The Committee believes that the proposed language provides sufficient flexibility to permit the legislature to determine the number of judges and supporting staff required to enable the Commonwealth trial court to get off to a good start. We recommend against any more specific language than is contained in the proposed section 2.

The proposed section 2 requires the creation of a specialized division within the Commonwealth trial court to hear all land matters. The Committee decided to create such a division in order to increase the efficiency and expertise with which these cases are resolved. The division would be staffed with as many judges as appropriate to hear land cases promptly. Judges assigned to the specialized land division shall be free to handle other cases in the court if their workload permits. The Committee decided not to require any special qualifications for judges assigned to the specialized land division, although the Committee emphasized its view that such judges should be expert in land matters and possess the ability to deal with such controversial matters objectively. The Committee is confident that the governor and the Senate will consider such matters carefully in evaluating the qualifications of

any nominee proposed for this judicial position.

Section 3: Commonwealth Appeals Court. Section 3 would empower the legislature to create a local appellate court after the Constitution has been in effect for five (5) years. This section clearly permits the legislature to vest all appellate jurisdiction in a Commonwealth appeals court after five (5) years have elapsed from the effective date of the Constitution, if the legislature concludes that the Commonwealth judiciary is ready for such additional responsibility. The reasons for the gradual approach are the same as those discussed above in considering the proposed section 2. The language of the proposed section grants maximum flexibility to the legislature in creating appellate courts and in deciding whether to require (or only permit) appeals in particular kinds of cases.

Section 4: Jurisdiction of the United States District Court for the Northern Mariana Islands. Section 4 vests jurisdiction in the United States District Court for the Northern Mariana Islands over those civil and criminal cases (both trial and appellate jurisdiction) which are not assigned by this article or the legislature acting pursuant to this article to the courts of the Commonwealth. When sitting as an appellate tribunal, the district court would consist of three (3) judges, at least one (1) of whom must be regularly serving as a judge in a court of record of the

Commonwealth. For the reasons set forth above, the Committee concluded that using the District Court for local matters was an appropriate transitional response to the special needs and circumstances of the new Commonwealth.

Section 5: Appointment and Qualifications. This section grants the governor the power to appoint judges of the Commonwealth courts with the advice and consent of the upper house of the legislature. This section also provides that judges will serve initial six (6) year terms and will be eligible for reappointment for one (1) or more terms. The legislature would have the authority to increase the terms of judges upon reappointment to a period of not more than twelve (12) years. Finally, the section requires that judges be at least thirty (30) years of age and United States citizens or nationals. The legislature would have the power to require other qualifications.

a) Method of Selection. The Committee concluded that appointment was a better method to select judges than through popular election. As the appointing official, the governor would have the resources and staff necessary to develop detailed and objective views concerning the qualifications of judicial candidates. The people will be able to give credit for good appointments and to fix blame for bad choices. Because the governor will depend on

the people for reelection, the Committee believes that this accountability will influence the governor to appoint well-qualified persons to the bench. There can be no firm guaranty of this, of course, as experience in the United States demonstrates. For this reason, the Committee concluded that confirmation by the Senate would provide a useful check on the governor's appointment power.

The Committee is persuaded that appointed judges would be more respected and less vulnerable to political pressures than elected judges. The selection process recommended by the Committee would free judges from the temptation of engaging in political activities to enhance their chances of reelection. Moreover, prospective judges would not feel compelled to attach themselves to political parties and engage in partisan activity in order to have a chance for appointment to the bench. As a result, judicial aspirants who are highly suited for the bench but who are averse to political activity would not be excluded from consideration. It seems clear, furthermore, that the skills involved in running successfully for office do not ensure the degree of legal ability or judicial objectivity desired for Commonwealth judges. Finally, a governor who has the power to appoint all local judges would have the capacity to

balance judicial selections among the various geographical and cultural groups within the Commonwealth.

b) Qualifications. The Committee recommends that the Constitution require that all judges be at least thirty (30) years of age in order to provide some assurance of the maturity required to discharge judicial functions and some practical experience after graduation from law school. The Committee also recommends that United States citizens or nationals be eligible for appointment to Commonwealth judgeships. The Committee is concerned with obtaining the best-qualified judges available for the local bench. Permitting nationals as well as citizens to serve as judges may increase the likelihood that this objective will be achieved. The Committee is continuing to consider the problem of nationals in connection with other matters under its jurisdiction, most particularly qualifications for officers of the legislative and executive branches of government. The Committee reserves the right, therefore, to revisit this issue after such further deliberations.

The constitutional language endorsed by the Committee would leave the issue of residency requirements to the legislature. The legislature's decision would, the Committee believes, turn on the Commonwealth's initial experience with its courts

and on the presence within the Northern Marianas of persons qualified to be judges. Although the Committee is generally sympathetic with residency requirements for legislative and high executive officials, it does not want to impose any such requirements for the judicial branch during the first years of the new Commonwealth. Leaving the matter to legislative discretion will enhance the Commonwealth's ability to secure the best qualified judges and preserve the opportunity to impose such restrictions in the future if they appear desirable.

The Committee's proposed language does not require that Commonwealth judges be lawyers. The Committee expects that all judges will most probably be attorneys. The Committee believes, however, that the flexibility to define the precise scope of legal training necessary should be given the legislature. That body could then determine whether graduation from an accredited law school, admission to a bar in the United States or either will be necessary to satisfy the legal training requirement. The Committee intends that a Marianas resident who has been graduated from any law school will be deemed to have received training at an accredited institution.

The legislature would have authority to prescribe other qualifications for judges. The Committee believes that this is the best way to ensure the flexibility needed for a judicial system whose shape and functions will almost certainly change over time.

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c) Tenure. The Committee's proposed section 5 would fix the duration of the initial term of every Commonwealth judge at six (6) years. At the legislature's option, the length of succeeding terms could be increased to a period ranging up to twelve (12) years.

The Committee believes that this approach would give a newly-appointed judge a sufficient period in which to develop his judicial capabilities and to demonstrate that he is worthy of reappointment. The relative brevity of the initial term would also permit the appointment of judges from outside the Commonwealth until there are a sufficient number of qualified Northern Marianas residents to serve as judges. The Committee rejects shorter terms (such as two or four years) because they might make it difficult to attract qualified judges and because a judge serving such a short term might concentrate on improving his chances for reappointment rather than meeting his responsibilities of dispensing justice expertly and fairly.

If judges demonstrate during their first term of six years that they are fully qualified to be members of the Commonwealth judiciary, the Committee concluded that a longer term of office might be appropriate. The Committee is aware that short terms of office have often been an obstacle in the United States to obtaining the best qualified judges. For a lawyer with a successful practice, going on the bench

means abandoning his private practice, foregoing any political activity, and devoting his full professional energies to his judicial responsibilities. The Committee believed that a longer term -- of up to twelve (12) years -- for second and succeeding terms might be helpful in encouraging qualified judges to make themselves available for reappointment.

On the other hand, the Committee rejected the alternative of lifetime judicial appointments. The Committee considered but was not persuaded by the advantages of such appointments. The Committee believes that appointing judges for life would deprive the Commonwealth of the ability to rid itself of jurists whose incompetence or dishonesty, while substantial, is not sufficient to justify their removal under the proposed section 7.

Section 6: Compensation. The Committee's recommended language would empower the legislature to fix the compensation of judges. Once a judge's rate of pay is set, however, it could not be decreased during the judge's term of office. The Committee has under consideration in connection with the legislative branch of government the use of an expert commission to advise the legislature with respect to governmental salaries. If the Committee pursues this approach, it reserves the right to revisit this proposed section and adjust it accordingly.

Section 7: Sanctions. The Committee's proposed language would render judges subject to impeachment. The procedures for removing a judge through impeachment would accord with those applicable against other civil officers. The grounds recommended by the Committee as adequate for impeachment are straightforward: commission of a crime, neglect of duty or conduct which brings the judiciary into disrepute.

The Committee believes that impeachment is a necessary vehicle for legislative oversight of the judicial branch. The grounds for impeachment which the Committee's proposed language would prescribe are sufficiently narrow to prevent legislative incursions into the independence of the court system. The Committee's concern for this independence motivated it to reject address and recall as methods of removing judges.

The Committee also recommends a second mechanism for disciplining judges. The article offered by the Committee would obligate the legislature to create an Advisory Commission on the Judiciary. Composed of lawyers and representatives of the public, the Commission would scrutinize the behavior of local judges. It would have the power to recommend that the governor remove, suspend or otherwise sanction a judge. The Committee is convinced that this approach permits an expert and nonpartisan review of judicial performance and a flexible

means of recommending disciplinary measures by the governor which can be tailored to suit the particular judicial misconduct.

Section 8: Limitations on Activities of Judges.

The Committee believes that the Constitution should specify a broad range of activities which are denied to judges. In the Committee's view, judicial participation in such activities would, at best, appear unseemly and, at worst, give rise to charges of conflict of interest.

Under the Committee's proposed language, a judge serving in a full-time position would be prohibited from holding any other compensated office under the government of the Commonwealth or of the United States. This limitation would serve two purposes. First, it would ensure that no judge will decide the legality of an action of a branch of government in which the judge is employed. Second, such a prohibition is probably required by the "separation-of-powers" clause of the Covenant.

The recommended article would also forbid a full-time judge from practicing law. This prohibition is designed to prevent a judge from appearing as a lawyer before fellow members of the judiciary. It is also intended to eliminate the possibility that a judge will try a case involving a question similar to an issue presented in another case in which the judge is appearing as counsel. Such restrictions are commonplace in the United States.

Finally, under the proposed section 8, a judge would be barred from engaging in a wide variety of political activities. The Committee believes that judges should be removed from politics to the fullest extent possible so as to increase the likelihood that they will be objective in deciding matters involving political concerns. The proposed language is taken almost verbatim from the Puerto Rico constitution and is admittedly comprehensive in its coverage. In the Committee's view, such a broad prohibition will protect Commonwealth judges by enabling them to reject any request that they engage in any political activity on the grounds that it might violate this section of the Constitution. If a person is unwilling to abandon all political activity, it is the Committee's view that such a person is not qualified for judicial office.

Section 9: Rule-Making Power. The Committee recommends that the judiciary receive authority to formulate rules in several areas relating to judicial administration. First, the proposed constitutional language of section 9 would authorize the Northern Marianas judiciary, acting either as a body or through a committee of its members, to propose rules governing civil and criminal procedures in the courts. Second, the proposed section would empower the judiciary to adopt rules relating to judicial ethics, dealing with such matters as outside employment (to the extent not dealt with in section 8) and conflicts of interests. Third, section 9

would authorize the Commonwealth courts to adopt rules governing the admission of lawyers to the bar as well as the discipline of attorneys after their admission. Other rules on matters of judicial administration would also be authorized under section 9.

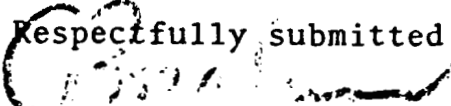
These proposed rules would be submitted promptly to the legislature for review. The legislature would have sixty (60) days in which to reject a rule submitted by the judiciary. If either house of the legislature does not disapprove a rule within that period of time, the rule would then take effect. The Committee is convinced that granting the judicial branch the authority to issue such rules would promote the efficient administration of justice. The Committee believes that the full opportunity afforded the legislature to disapprove a suggested rule would serve as a sufficient check on the judiciary's possible abuse of this power. Since the Committee has tentatively concluded that the legislative branch can determine the frequency and length of its sessions, it concluded that the sixty (60) day period provided sufficient time for the legislature to act to disapprove a proposed judicial rule.

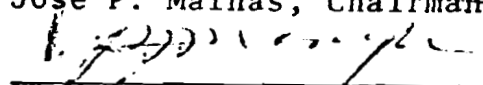
The Committee's proposed section 9 is permissive rather than mandatory. Since it is desirable to have some rules available as soon as the Commonwealth courts begin functioning, section 9 provides further that the rules governing these subjects in the United States District Court

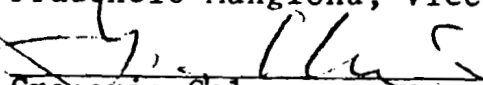
for the Northern Mariana Islands shall govern until such time as the Commonwealth courts adopt their own rules. The Committee has requested counsel to report whether additional language is necessary in section 9 to prevent the application of any rules applied in United States courts which are inconsistent with either the Covenant or other provisions of the Constitution.

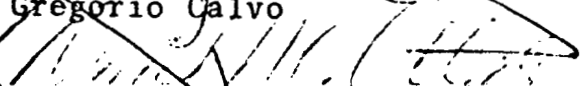
The Committee believes that its proposed constitutional article on the judicial branch would form the basis for a court system capable of dispensing justice with efficiency and sensitivity to the needs of the people of the Northern Mariana Islands. The Committee recommends that the Convention adopt in principle the attached article.

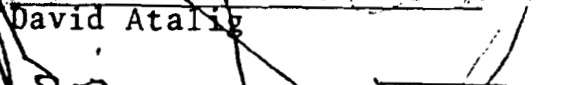
Respectfully submitted,



Jose P. Mafnas, Chairman


Prudencio Manglona, Vice Chairman

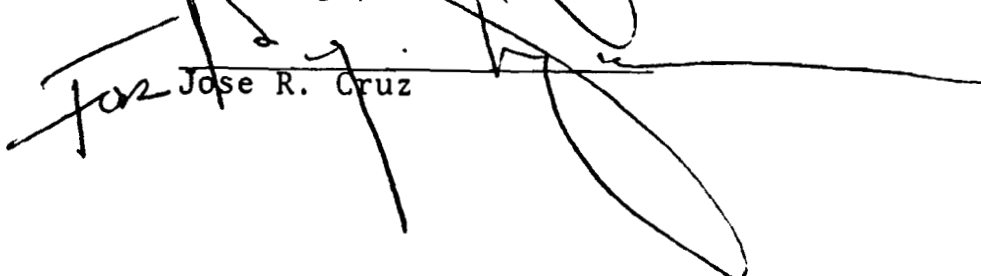

Gregorio Calvo


David Atalig


Benjamin Manglona


Pedro Isiloi

(CMTL Representative)


Jose R. Cruz

Joaquin Torres

Olympio T. Borja

Herman Q. Guerrero

David Q. Marañita

Antonio M. Camacho

Vicente T. Attao

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ARTICLE _____

THE JUDICIAL BRANCH OF GOVERNMENT

Section 1: Judicial Power. The judicial power of the Commonwealth shall be vested in a Judiciary of the Northern Mariana Islands. The Judiciary of the Northern Mariana Islands shall include such trial and appeals courts as the legislature may establish pursuant to this article.

Section 2: Commonwealth Trial Court. The legislature shall establish a Commonwealth trial court. This court shall have original jurisdiction over all matters involving land in the Commonwealth and all other civil actions except those in which the value of the controversy exceeds five thousand dollars (\$5,000). The court shall also have original jurisdiction over all criminal actions except those in which the defendant, if convicted, may be fined an amount that exceeds five thousand dollars (\$5,000) or imprisoned for a term than exceeds five (5) years. At least one (1) full time judge of the Commonwealth trial court shall be assigned to Rota, and at least one (1) full time judge of the Commonwealth trial court shall be assigned to Tinian. Land matters within the jurisdiction of the Commonwealth trial court shall be considered by a specialized division of the court for at least five (5) years. After this Constitution has been in effect for five (5) years,

the legislature may vest additional civil and criminal jurisdiction in the Commonwealth trial court.

Section 3: Commonwealth Appeals Court. After this Constitution has been in effect for five (5) years, the legislature may establish a Commonwealth appeals court to hear such appeals from judgments and orders of the Commonwealth trial court as are required or permitted by law.

Section 4: Jurisdiction of the United States District Court for the Northern Mariana Islands. The United States District Court for the Northern Mariana Islands shall have trial and appellate jurisdiction in all civil and criminal cases to the extent that such jurisdiction is not vested in courts of the Commonwealth by this article or by the legislature acting pursuant to this article. When the District Court sits as an appellate court to hear appeals from the Commonwealth trial court or from the District Court sitting as trial court, it shall consist of three judges, at least one of whom shall be a judge regularly assigned to a division of the Commonwealth trial court that functions as a court of record.

Section 5: Appointment and Qualifications. Judges shall be appointed for a term of six (6) years by the Governor by and with the consent of the Senate. The term of office may be increased by law to not more than twelve (12) years for judges who have served at least one term. A judge

shall be at least thirty (30) years of age, a United States citizen or national and possess such other qualifications as may be provided by law.

Section 6: Compensation. The compensation of judges shall be provided by law. There shall be no diminution of the salary of any judge during his term of office.

Section 7: Sanctions. Judges shall be subject to impeachment in the same manner as are other civil officers for the commission of crime, for neglect of duty or for conduct that brings the judicial office into disrepute. The legislature shall establish an Advisory Commission on the Judiciary whose members shall include both lawyers and representatives of the public. Upon recommendation of the Advisory Commission, the governor may remove, suspend or otherwise sanction a judge for illegal or improper conduct.

Section 8: Limitations on Activities of Judges. No full-time judge shall hold any other compensated government position or engage in the practice of law. No judge shall make any direct or indirect financial contribution to any political organization or party, or hold any executive office therein, or participate in a political campaign of any kind, or be a candidate for an elective public office unless he has resigned his judicial office at least six months prior to his nomination.

Section 9: Rule-Making Power. The Judiciary of the Northern Mariana Islands may establish rules governing civil

and criminal procedure, judicial ethics, admission to and governance of the Bar of the Northern Mariana Islands, and other matters of judicial administration provided, however, that any proposed rule shall be promptly submitted to the legislature and shall become effective sixty (60) days after its proposal unless disapproved by either house of the legislature. Until rules are established pursuant to this article, the rules governing such matters in the United States District Court for the Northern Mariana Islands shall apply in the Commonwealth courts.

November 4, 1976

REPORT TO THE CONVENTION OF
THE COMMITTEE ON GOVERNMENTAL INSTITUTIONS

Subject: Committee Recommendation Number 3:
Legislative Branch of Government

The Committee on Governmental Institutions recommends that the Convention adopt in principle the attached constitutional provisions with respect to the legislative branch of government.

The Committee believes that the legislature of the Commonwealth of the Northern Mariana Islands should have power adequate to deal with the difficult and varied problems to be faced by the Commonwealth. Its recommended constitutional language accordingly vests such power in a legislature to be composed of two houses. The Committee's recommended language also deals with the composition of the two houses and the qualifications for membership in each, reapportionment, the procedure for the enactment of legislation, the governor's veto, confirmation of appointments, impeachment, the filling of vacancies in the legislature, legislative compensation, the conduct of legislators, and the sessions, organization and procedures in the two houses. These suggested constitutional provisions are contained in an article of fifteen sections. The principal issues considered by the Committee and the reasons underlying the Committee's recommended draft constitutional provisions are discussed below.

Section 1: Legislative Power. This section provides that the legislative power of the Commonwealth "shall extend to all rightful subjects of legislation." It vests this power in a Northern Marianas Commonwealth Legislature, to be divided into a Senate and a House of Representatives.

The language describing the extent of the legislative power is the same language used in the Covenant and is repeated here in order to confer upon the legislature all the power that the Covenant made available. As is made clear in the legislative history of the Covenant, this language gives the Commonwealth as much legislative power as is available under the United States Constitution. The Committee felt that conferring on the legislature all power available under the Covenant was the best way to ensure that the law-making body would have sufficient authority to deal with the many unique problems the Commonwealth will face. The Committee rejected the alternative of trying to enumerate the specific powers to be exercised by the legislature because of the risk of omitting an important power and the desire to avoid needless litigation concerning legislative enactments. For the same basic reasons, the Committee decided not to impose any specific limitations on the legislature in the legislative article.

The Committee intends this general grant to include the power to pass special and local laws. Local laws are those that relate only to a particular locality, such as one of the three major islands. Giving this power to the legislature does not prejudge the question of whether particular

matters should be addressed at the Commonwealth level or at the local level. That subject will be addressed by any article on local government, and in any case, power over local affairs may be delegated to localities by statute. This language was adopted to ensure that power to act in all matters, including those regarding localities, was lodged somewhere and provides the Commonwealth legislature with needed flexibility to deal with the individual problems of Rota, Saipan and Tinian.

The division of the legislature into two houses that is provided by the article is required by section 203 of the Covenant.

Section 2: Composition of the Senate. Rota, Saipan and the islands north of it, and Tinian are each to have three senators elected at large. Solely for purposes of providing representation to anyone who may come to live there, the island of Aguiguan is grouped with Tinian. The section further provides that the residents of the islands north of Saipan, once they number 1,000 persons, will also be entitled to three senators. Senators will be elected for four-year terms, except for the senator from each delegation who receives the lowest number of votes in the first election; these senators will serve for two years only. To qualify for the office of senator, a person is required to be a qualified voter, a United States citizen or national, at least twenty-five years old, and a resident of the Commonwealth for at least five years.

The Committee decided on a nine-person Senate as a compromise, balancing the need to avoid unnecessary expense against the necessity that the body be large enough to discharge its functions. Equal representation of Rota, Saipan and Tinian is required by the Covenant. Under this provision the islands north of Saipan, once their population is large enough, would be entitled to representation in the Senate automatically. The Committee felt that any other procedure might lead to politically motivated delay in providing representation to this area.

The Committee favors a four-year term for senators to permit the accumulation of legislative experience and to provide for continuity in the Senate. The senators receiving the lowest number of votes in the first election are given two-year terms so that at least one-third of the seats in the Senate will be contested in each election. This was done to ensure that the voters would not have to wait four years to express an opinion on the actions of the Senate and to make the Senate somewhat more responsive to changes in political sentiment.

The Committee has suggested several qualifications for the office of senator. The requirement that senators be qualified voters is based on the idea that persons ineligible to vote should not hold high office. The requirement of United States citizenship or national status is intended to ensure that senators have a basic loyalty to the

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United States and to the Commonwealth. The age requirement is intended to guarantee that senators have a certain maturity of judgment.

The Committee felt that it was necessary to require senators to have resided in the Commonwealth for the five years preceding their election to ensure that candidates for that office have time to acquaint themselves with the unique situation of the Commonwealth and that the voters have an opportunity to study the candidates. On advice of counsel the Committee concluded that any longer residency requirement would involve an unacceptable risk of being considered in violation of the United States Constitution. Authority is granted the legislature to increase the residency requirement if future circumstances, including clarification of the pertinent legal limitations, suggest that this is desirable.

Section 3: Composition of the House of Representatives. This section provides for a thirty-member House of Representatives, with twenty-five members elected from Saipan, and the islands north of it, two from Tinian, and three from Rota. For purposes of representation only, the island of Aguiguan is grouped with Tinian. The legislature is empowered to increase the total membership to not more than forty. Representatives are required to be qualified voters, United States citizens or nationals, at least twenty-one years old, and residents of the Commonwealth for at least three years preceding their election. For purposes of electing representatives,

the Commonwealth is divided into nine electoral districts: one each on Rota and Tinian, six on Saipan and one covering the islands north of Saipan. These districts may be altered in number or boundaries by the legislature, except that those on Saipan may not be changed for ten years following the effective date of the Constitution except as is necessary for reapportionment purposes. Also, any alteration must respect the geographic integrity of Rota and Saipan, so that no district including any part of either of these two islands may include any part of another island.

In recommending this number and distribution of representatives, the Committee has balanced the need for efficiency, the interest in economy and the requirements of the United States Constitution. The House must be large enough to do its work and represent fairly the various groups in the Commonwealth. It must not be so large as to be unwieldy or excessively expensive. The Committee believed that no substantially populated island in the Commonwealth should be represented by fewer than two representatives. However, United States constitutional provisions requiring that each representative represent approximately equal numbers of people make it necessary to give Saipan and the islands north of Saipan at least twenty-five representatives and Rota three, if Tinian is to have two. A thirty-member House of Representatives is thus the best available compromise. The legislature is permitted to increase the size of the House of Representatives

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to forty members in order to facilitate adjustments necessary to ensure equal representation in the future.

The Committee recommends a two-year term of office to ensure that representatives will be responsive to the wishes of the people. The Committee's reasoning regarding the qualifications of representatives was essentially the same as that regarding senators. The Committee felt that a lower maximum age and a shorter period of required residency were desirable in light of the differences between its duties and those of the Senate in order to open the House to the greatest number of qualified persons. As in the case of the Senate, the legislature is given the power to increase the residency requirement if that seems desirable in the future.

The Committee has recommended that representatives be elected from districts in order to maximize their accountability to the voters. Linking representation to particular geographic areas lessens the likelihood that the interests of the voters of these areas would be neglected. For this reason and because of their historic representation in the District Legislature, the Committee decided that the islands north of Saipan should constitute a single district for the purpose of electing one member of the House of Representatives. It is anticipated that the six districts on Saipan be formed either by some combination of the present electoral precincts or by a special redistricting of Saipan for purposes of the first election under this constitution. The twenty-four representatives for Saipan would be divided among these districts

so as to provide for approximately equal representation of citizens by each representative. The Committee recommends that the legislature be empowered to alter or increase the number of electoral districts in order to facilitate adjustments required due to population changes. In view of the special situation of Saipan, it is felt that no alteration should take place there for ten years unless such change appears necessary to enable the legislature to fulfill its reapportionment responsibilities under this Constitution and the United States Constitution. The requirement that the geographic integrity of the islands be respected is intended to forestall any effort to create a district including parts of Rota or Saipan and another island.

The Committee considered alternative methods of voting and concluded that the simplest and traditional method -- one vote per seat to be filled -- should be followed. In districts with four representatives to be elected, for example, each voter could cast four votes but only one to a candidate. The Committee considered a system of cumulative voting, which would permit a voter to cast all his votes for a single candidate, but decided it might be confusing and was probably not necessary to protect minority rights in light of the electoral districts proposed for the new Commonwealth.

Section 4: Reapportionment. This section makes provision for the reapportionment of the House of Representatives. Such reapportionment as is needed to reflect changes

in the Commonwealth's population or as required by law is to take place at least every ten years. Initial responsibility for reapportionment is vested in the legislature, which must enact a reapportionment plan within one hundred and twenty days following each decennial (ten-year) census. The plan must provide for compact and contiguous districts and for representation by each representative of approximately the same number of residents, to the extent geography permits. If the legislature fails to carry out its responsibility, the governor is charged with the duty of promulgating a plan within one hundred and twenty days of the legislature's failure to act. The governor's plan is to be published in the manner provided for acts of the legislature, and to have the force of law once published. Upon the application of any qualified voter, the court with jurisdiction of appeals from the Commonwealth trial court is given sole jurisdiction to review any reapportionment plan and make any necessary changes or promulgate a plan if the governor has failed to do so.

The purpose of periodic reapportionment is to ensure that seats in the House of Representatives are in fact distributed on the basis of population. Without such reapportionment, changes in the distribution of population among the districts would not be reflected in the allocation of seats in the House. This result would not only be contrary to the basic concept of the form of representation in the House of Representatives, but would also violate the United

States Constitution's requirement that legislators represent approximately equal numbers of people.

The requirement of reapportionment every ten years or as provided by law is intended to ensure that reapportionment takes place whenever new census information is available, and to permit more frequent reapportionment if that appears desirable. Initial responsibility is vested in the legislature in order to permit popular input into questions of representation and because the legislature has the legal authority to increase the size of the House of Representatives, to change districts and to reapportion representatives among districts. Thus the legislature is best equipped to deal responsibly with population changes and to fashion a reapportionment scheme which comports both with legal requirements and political realities. The one hundred and twenty day time limit is established to make certain that the matter is addressed expeditiously. The proposed language requires that districts be compact and contiguous to reduce the possibility that district lines will be drawn in a way intended to give a particular political group an advantage.

The governor is given the power to reapportion the House of Representatives if the legislature fails to act. The Committee intends by this arrangement to make certain that legally required reapportionment is carried out even if the legislature fails in its duty. The governor's published plan is given the force of law, in order to eliminate

any need for action by the same legislature that has already shown itself unable to deal with this question. The power of the governor in this matter is, however, checked by that of the court which hears appeals from the trial court. This check has two aspects. First, the court may review the lawfulness of the plan and amend it as necessary to bring it into line with the Constitutional requirements. Second, if the governor has failed in his duty to draw a plan, the court may draw one of its own. The court may act in either situation upon the application of any qualified voter.

Section 5: Enactment of Legislation. This section sets out the requirements for enactment of legislation. The Committee recommends that origination of appropriation and revenue bills be limited to the House of Representatives, but that no restriction be imposed on the origination of any other bill. All bills must be confined to one subject except for bills dealing with appropriations, on bills dealing with the codification, revision or rearrangement of existing law. Appropriations bills are further limited to the subject of appropriations. Under the Committee's recommendation, the legislature has the responsibility for ensuring compliance with these rules; judicial review of these matters is expressly forbidden. This section requires that a bill receive a majority of the votes cast in each house of the legislature in order to become law.

The Committee believes that appropriations and revenue bills ought to originate in the House of Representatives because that body is likely to be more closely attuned to the people than is the Senate. Furthermore, a requirement that the House of Representatives act first on such bills will permit the Senate to be aware of the views of the House of Representatives before it acts. The Committee felt that all other bills could originate in either house.

The Committee's proposal that no bill should become law without the votes of the majority of those voting in each house is an important recommendation. Any other system would reduce the degree of protection that the different systems of representation in the Senate and the House of Representatives were intended to provide. The Committee anticipates that joint action will permit more careful considerations of legislation than would be possible if one house could act alone and that the two houses will have to work out some method (such as the use of conference committees) to reconcile their views regarding proposed legislation.

The requirement that most bills be limited to one subject is intended to prevent the attachment to desirable bills of unrelated, undesirable provisions, and other devices whereby the legislature may be led to enact measures which, if considered alone, would be rejected. Such a requirement also eliminates the possibility that a bill may deal with so many different matters as to be incomprehensible

to the legislators who must consider it. The exceptions for appropriations bills and bills codifying, revising and rearranging laws were necessary because such bills cannot by their nature be limited to one subject. The majority vote requirement is simply intended to clarify this matter. It should be noted that this margin is merely a minimum requirement. It is intended that either house be able to require a different margin for passage of a bill in its own procedural rules.

Section 6: Action on Legislation by the Governor.

This section would require the presiding officer of each house to sign every bill passed by the legislature. The bill will then be transmitted to the governor. If he signs the bill, it would become law. On the other hand, if the chief executive vetoes all or part of the bill, he must return it to the legislature for its reconsideration. Only if two-thirds of the elected members of each house vote to pass the bill over the governor's veto would the measure become law. The governor would be able to disapprove part rather than all of a bill only if it deals with the appropriation of money. If the governor fails to complete consideration of an appropriation bill within twenty days of receiving it and of any other bill within forty days of receiving it, it would become law automatically.

Under the Committee's proposed language, a bill passed by the legislature could become a law in three ways.

First, signature by the governor would transform a bill into a statute. Second, a bill vetoed by the governor would become law if reconsidered favorably by two-thirds of the members elected to each house of the legislature. Third, a measure would become law if the governor fails to act on it within a fixed period of time.

The Committee is convinced that assigning the veto power to the governor is an essential check on the power of the legislature. In addition, this power would increase the likelihood that legislation will benefit the people of the Commonwealth by subjecting each bill passed by the legislature to the scrutiny of the official who would be responsible for its implementation were it to become law.

Every state constitution except one follows the example of the United States Constitution in permitting a governor to veto a bill as a whole. The Committee believes that this precedent should be followed, and a general veto power is included in its recommended provision. The Committee also recommends that the governor be given the power to veto items in an appropriation bill without having to disapprove the entire measure. Item vetoes used in the context of money bills promote the efficient completion of the budgetary process while avoiding unwise expenditures. The Committee feels it unwise to permit item vetoes of all types of legislation. Most legislation is the result of compromises reached among

legislators and the Committee is reluctant to permit the governor to upset compromises reflected in bills other than appropriations bills.

The Committee is also persuaded that every bill endorsed by both houses of the legislature merits swift consideration by the governor. The time constraints imposed on the governor by the Committee's recommended section are designed to achieve that objective. The Committee concluded that a distinction could properly be drawn between appropriations bills and other bills. Since the executive branch will have prepared a proposed budget for consideration by the legislature, the Committee concluded that twenty days would be sufficient for the governor to approve or veto any appropriations bill.

A governor might reject a bill for unwise or even capricious reasons. Authorizing the legislature to override such a veto by an extraordinary majority provides flexibility necessary to the smooth functioning of government. The Committee considered other possible requirements for legislative override but decided that two-thirds of the elected members (not just those present and voting) was an appropriately severe requirement to pass legislation over the governor's veto.

Section 7: Confirmation of Appointments. This section empowers the Senate to confirm appointments by the governor where such confirmation is

required by the law or by the Constitution. The purpose of this provision is to ensure that persons whose duties are important to the whole Commonwealth are acceptable to the representatives of the three main islands within the Commonwealth.

Section 8: Impeachment. This section empowers the legislature to impeach those officials made subject to impeachment by the executive and judicial branch articles of the Constitution. Impeachment is divided into two separate processes. The House of Representatives may bring charges of impeachment by the affirmative vote of two-thirds of its entire membership. The Senate will try the official named in the charges and may convict only upon the affirmative votes of two-thirds of its members.

The Committee believes that the power of impeachment is necessary to check possible abuses by high officers of the government. The Committee believes that the definition of the officers subject to impeachment and the grounds for impeachment should be spelled out in the judicial and executive branch article and that the legislative branch article should deal only with matters of procedure. The House of Representatives is given power to bring charges, since it is most directly representative of the people who elected the executive branch officials whose judgment is to be challenged directly (in the case of impeachment of an executive branch official) or indirectly (in the case of impeachment of a judge

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who was appointed by the governor). The Senate is given the power of trial to insure that the question is considered by a body that represents equally the three major islands and that can most effectively guard against conviction based on irrelevant political grounds. Extraordinary majorities are required both to impeach and to convict because of the importance of the matter.

Section 9: Vacancies: This section provides for filling vacancies that may occur through death, disability, resignation or expulsion. It provides that seats that become vacant with more than half of the term remaining shall be filled by a special election. Seats that become vacant when less than half the term remains shall be filled by the governor. He is obliged to appoint to the vacancy the unsuccessful candidate for the seat in the last election who received the highest number of votes, who is able and willing to serve. If there are no unsuccessful candidates who are able and willing to serve, the governor must appoint a qualified person from the island, if the seat is in the Senate, or electoral district, if the seat is in the House of Representatives, to which the seat is apportioned.

The Committee felt that the decision on filling a vacant term with more than half its length to run was too important to be taken from the voters. The Committee was reluctant to impose upon the Commonwealth the expense of special elections for shorter periods, and therefore

provided that the highest available runner-up should be appointed to terms with relatively little time remaining. Such persons, the Committee believed, would have demonstrated their acceptability to the voters by receiving votes in an election. The Committee believes that the governor may be trusted to appoint a successor when no runners-up are available, in light of his responsibility to the entire Commonwealth.

Section 10: Legislative Compensation. This provision sets the salary of the members of the legislature at \$12,000 and permits the legislators to receive reasonable compensation for expenses. It permits the legislature to alter the amount of salary, but only upon the recommendation of an advisory commission established by law to study and make recommendations concerning the compensation of Commonwealth executive, legislative and judicial officers. Such changes could not take place more often than once in four years. The section further provides that a salary increase may not be effective for the legislature that enacts it.

In dealing with the question of compensation, the Committee balanced four considerations. First, it wanted to ensure that the salaries for members of the legislature would be adequate to attract competent people to public service. Second, the Committee wished to avoid extravagance. Third, the Committee wanted to provide a system flexible enough to adjust to changing economic circumstances. Finally, the Committee wished to avoid a situation in which the legislature would

be tempted to give itself an undeserved salary increase, or would appear to have given itself such an increase.

The Committee believes that the draft article meets each of these concerns. The amount selected is large enough to be competitive, but not unreasonable. Flexibility is guaranteed by giving the legislature authority to change this amount, but the requirement of a recommendation by a commission considering the salaries received by members of all three branches of government will eliminate any impression that the legislature is acting out of self interest. The limitation to one salary change in four years and the delay in effectiveness of changes will also reduce the likelihood of needless increases. The Committee reserved to the legislature power over expenses, however, as traditional and necessary.

Section 11: Prohibition on Government Employment.

This section prohibits legislators from serving in any other government position, including independent boards, agencies, authorities or commissions established by the Commonwealth legislature.

The Committee felt that permitting legislators to work in other branches of government would raise problems of separation of powers, with government-employed legislators facing conflicting pressures from the two branches of government that they serve. The Committee's proposed language also covers employment by the United States government.

The reference to independent boards and agencies was included because of the ambiguous nature of such entities and the desire to provide a clear rule prohibiting any service (whether compensated or not) by legislators on such bodies created by Commonwealth law.

The Committee discussed but discarded a proposal to forbid all outside private employment. It was felt that such a provision would make it impossible for many people to serve as legislators. Professionals who were obliged to abandon their professions for two or four years might have great difficulty re-entering private practice after their term of service ended. Business people and farmers might be forced to sell their property in order to serve. Persons who could not support their families on legislative salaries would clearly be unable to afford service as legislators.

Section 12: Legislative Immunity. This section confers immunity upon legislators for oral or written statements made either on the floor or in Committee, and shields them from arrest while going to or coming from the legislature.

The Committee believes that legislators will feel free to discuss any subject only if they are immune from civil suit and criminal prosecution as a result of any remarks made on the floor of the legislature or in its committees or in any written report. Otherwise, legislators might be afraid to discuss a subject until they had accumulated sufficient evidence to defend themselves in court. This might prevent very important matters from ever being discussed. The

Committee was concerned that immunity for statements made might be abused, but finally decided that the need to ensure freedom of debate outweighed the danger of abuse. The Committee considered also that limitations on debate so as to avoid, for example, irrelevant criticism of Commonwealth citizens would be set forth in the legislature's internal rules.

The arrest provision is intended to ensure that members are able to participate in deliberations of the legislature. The Committee rejected a broader immunity from arrest in the belief that no citizen of the Commonwealth should be above the law. Under the Committee's recommendation, members are subject to arrest for crimes committed during the legislative session but cannot be deterred while going to or coming from a legislative meeting. If convicted of a crime, of course, they would be imprisoned just like any other citizen.

Section 13: Sessions. This section provides that the legislature shall be in continuous session, with the actual meetings of each house regulated by law or by its own procedures. The presiding officers of the legislature and the governor may call special sessions. In the case of a special session called by the governor, the legislature shall be limited to a discussion of the subject that was described in the call.

The Committee wished to avoid the technical problems that develop when legislative sessions legally "end" after a brief period of convening. The Committee also felt that the legislature should have maximum flexibility in deciding how much time it needs to deal with the public business. For these reasons, sessions are to be continuous, with actual meetings to be set by law or house rule. It was felt that the subject matter of special sessions called by the governor should be limited, however, to ensure that whatever extraordinary matter inspired the governor's call was resolved first.

Section 14: Organization and Procedures. The Committee has attempted to collect all important provisions concerning organization and procedures in this section. All other procedural and organizational matters would be left for the legislature to resolve in its own rules.

Subsection (a): This subsection makes each house the final judge of the elections and qualifications of its members, and permits the legislature to vest in the courts the responsibility for determination of contested elections. Each house is permitted to compel the attendance of members, to discipline members, and, upon a three-fourths vote of its membership, to expel members for commission of treason, felony, breach of the peace, or violation of the legislature's rules.

The Committee concluded that each house should be the final judge of the elections and qualifications of its members so that the legislature is not subordinated to a court

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on such an important matter. However, the legislature is expressly permitted to vest jurisdiction in the courts to determine contested elections. The Committee feels that the legislature may be ill-equipped to undertake the court-like proceedings required to settle a contested election, and wishes to make clear that this function may be delegated to a court. The legislature may retain final authority to accept or reject the court's action.

The provisions on compelling attendance and discipline are standard. The power of expulsion is limited to the stated grounds to prevent politically motivated expulsions. In cases of expulsion, it must be emphasized, the legislature is free to act without the member in question having been convicted in a court. Use of this provision is only one of the ways to remove legislators; they may also be recalled.

Subsection (b): This subsection requires each house of the legislature to choose its presiding officer from among its members, establish such committees as it deems necessary and determine its rules of procedure. Each house is also given power to compel the attendance and testimony of witnesses and the production of books and papers before the full house or one of its committees. Also, the legislature is required to keep a journal to be published from day to day.

These are standard provisions relating to legislative organization. The language concerning the power to compel attendance and testimony of witnesses and the production of papers is intended to make explicit the

legislature's inherent power to investigate. The requirement of a journal ensures a public record of legislative actions so as to permit informed public scrutiny of the legislature. The Committee rejected any constitutional provision directing that particular staff positions, such as auditor, be created by the legislature.

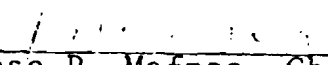
Subsection (c): This subsection requires the legislature and its committees to meet in public, but permits meetings of either house in executive session if approved by a two-thirds vote of the full membership of that house. The same vote by its parent house or houses is required before any committee may go into executive session. This section prohibits taking any final action in executive session.

The Committee attempted to balance the desirability of open government against the necessity for conducting some business in private. The Committee felt that some mechanism for private sessions was necessary, in order to facilitate, for example, discussions of military matters connected with any military posts established in the Commonwealth; or to investigate unverified charges against individuals being considered for executive positions. The two-thirds vote required as a prerequisite to executive sessions is intended to guard against excessive secrecy. Likewise, the prohibition on taking final actions in executive session is aimed at ensuring that all actions of the legislature and its committees are on the record.

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Section 15: Code of Conduct. This section requires legislators to disclose any personal or private interest in any measure or bill proposed or pending before the legislature and not to vote thereon. It also requires the legislature to enact a code of conduct to govern its members, particularly regarding conflicts of interest and propriety in debate. The Committee feels that voting in situations where a member has a private interest must be discouraged. Beyond setting policy on this one matter, the Committee believes that a simple mandate to the legislature to act will ensure that the subject is adequately treated, while avoiding the inflexibility inherent in a detailed provision.

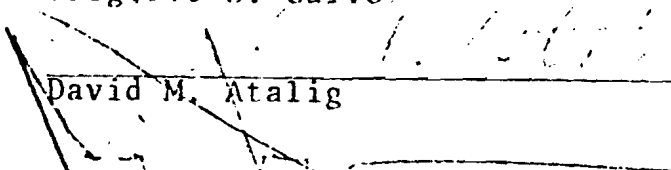
Respectfully submitted,



Jose P. Mafnas, Chairman

Prudencio T. Manglona, Vice Chairman

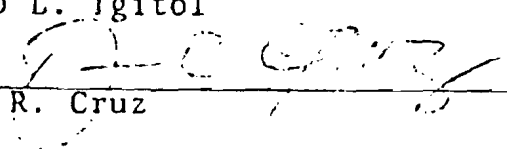
Gregorio S. Calvo



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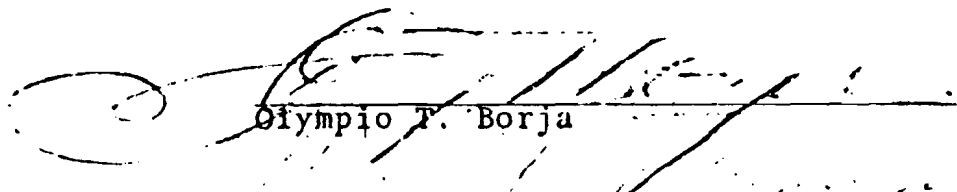
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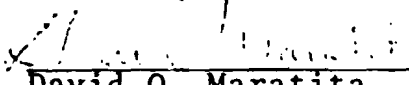


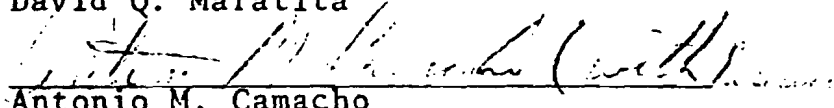
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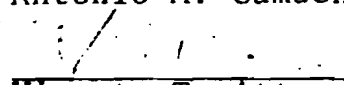
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November 3, 1976

ARTICLE ____
THE LEGISLATIVE BRANCH
OF GOVERNMENT

Section 1: Legislative Power. The legislative power of the Commonwealth shall extend to all rightful subjects of legislation and shall be vested in a Northern Marianas Commonwealth Legislature composed of a Senate and a House of Representatives.

Section 2: Composition of the Senate.

a) The Senate shall consist of nine (9) members with three (3) members elected at large from Rota, three (3) members elected at large from Saipan and the islands north of it, and three (3) members elected at large from Tinian and Aguiguan. The term of office for senator shall be four (4) years except that the candidate receiving the third highest number of votes in the first election for senator on each island pursuant to this section shall serve a term of two (2) years.

b) The Senate shall be increased to twelve (12) members and three (3) members shall be elected from the islands north of Saipan at the first regular general election after the population of these islands exceeds one thousand (1,000) persons. The senator receiving the third highest number of votes in the first such election shall serve for two (2) years.

c) A senator shall be a qualified voter of the Commonwealth, a United States citizen or national, at least twenty-five (25) years of age, and a resident of the Commonwealth for at least five (5) years immediately preceding his election. A longer residency requirement may be provided by law.

Section 3: Composition of the House of Representatives.

a) The House of Representatives shall consist of thirty (30) members with twenty-five (25) members from Saipan and the islands north of Saipan, three (3) members from Rota and two (2) members from Tinian and Aguiguan provided, however, that the number of representatives may be increased by law to not more than forty (40). The term of office for representative shall be two (2) years.

b) A representative shall be a qualified voter of the Commonwealth, a United States citizen or national, at least twenty-one (21) years of age, and a resident of the Commonwealth for at least three (3) years immediately preceding his election. A longer residency requirement may be provided by law.

c) Rota shall constitute one electoral district, Tinian and Aguiguan shall constitute one electoral district, the islands north of Saipan shall constitute one electoral district, and Saipan shall be divided into six (6) electoral districts for the election of representatives. The legislature may change the number and boundaries of the electoral districts used for electing representatives but no district on Rota and

Saipan shall consist of more than one island. For ten (10) years following the effective date of this constitution, the legislature shall not change the electoral districts on Saipan and the islands north of Saipan except pursuant to its duties under section 4 of this article.

Section 4: Reapportionment.

a) At least every ten (10) years and within one hundred and twenty (120) days following each decennial census, the legislature shall reapportion the seats in the House of Representatives as required by changes in Commonwealth population or by law. Any such reapportionment plan shall provide for compact and contiguous districts and for representation by each member of the House of Representatives of approximately the same number of residents to the extent permitted by the geography of the Commonwealth and the distribution of population among the separate islands.

b) If the legislature fails to reapportion the House of Representatives pursuant to subsection (a), the governor shall promulgate a reapportionment plan within one hundred and twenty days after the legislature's failure to act. The governor's plan shall be published in the manner provided for acts of the legislature and shall have the force of law upon such publication. Upon the application of any qualified voter, the court with jurisdiction over appeals from the Commonwealth trial court shall have original, exclusive and final jurisdiction to review any reapportionment

plan and shall have jurisdiction to make orders to amend the plan to comply with the requirements of this Constitution or, if the governor has failed to promulgate a plan within the time provided, to make one or more orders establishing such a plan.

Section 5: Enactment of Legislation.

a) Appropriations and revenue bills may be introduced only in the House of Representatives. Other bills may be introduced in either house of the legislature.

b) Every bill shall be confined to one subject except bills for appropriations and bills for the codification, revision or rearrangement of existing laws. All appropriation bills shall be limited to the subject of appropriations. Legislative compliance with the requirements of this subsection is a constitutional responsibility not subject to judicial review.

c) The legislature shall enact no law except by bill and no bill shall become law without the approval of at least a majority of the votes cast in each house of the legislature.

Section 6: Action on Legislation by the Governor.

a) Every bill passed by the legislature shall be signed by the presiding officer of each house and transmitted to the governor by the presiding officer of the house in which the bill originated. If the governor approves the bill, he shall sign it and the bill shall become law. If the governor disapproves the bill, he shall indicate his

veto on the bill and return it to the presiding officers of both houses of the legislature with a statement of the reasons for his action. The governor may veto any specific item or items in any appropriations bill and sign the remainder of the bill.

b) The governor shall have twenty (20) days in which to consider appropriation bills and forty (40) days in which to consider all other bills. If the governor fails either to sign or veto a bill within the applicable period, it shall become law in the same manner as if he had signed the bill.

c) Any bill or item of a bill vetoed by the governor may be reconsidered by the legislature. If two-thirds (2/3) of the members in each house vote upon reconsideration to pass the bill or item, it shall become law.

Section 7: Confirmation of Appointments. The Senate shall have the power to confirm appointments by the governor where such confirmation is required by this constitution or by law.

Section 8: Impeachment. The legislature may impeach the governor and such other executive and judicial officers of the Commonwealth as are made subject to impeachment by this constitution. The House of Representatives shall have the power to initiate impeachment proceedings by the vote of two-thirds (2/3) of its members and the

Senate shall have the power to hear impeachment charges and to convict by the vote of two-thirds (2/3) of its members. The legislature shall provide procedures for the trial and removal from office after conviction of officers so impeached.

Section 9: Vacancies. A vacancy in the legislature shall be filled by special election if more than one-half (1/2) of the term remains. If less than one-half (1/2) of the term remains, the governor shall fill the vacancy by appointing the unsuccessful candidate for the office in the last election who received the largest number of votes and is willing to serve or, if no such candidate is available for appointment, any person qualified for the office from the island or electoral district involved.

Section 10: Legislative Compensation. The members of the legislature shall receive an annual salary of twelve thousand dollars (\$12,000) and such reasonable allowances for expenses as may be provided by law. The salary of members may be increased no more frequently than once every four (4) years and only upon the recommendation of an advisory commission to be established by law to study and make recommendations concerning the compensation of Commonwealth executive, legislative and judicial officers. No increase in the salary of the members of the legislature shall apply to the legislature which enacted the same.

Section 11: Prohibition on Government Employment. No member of the legislature shall serve in any other government position including any independent board, agency, authority or

commission established by Commonwealth law.

Section 12: Legislative Immunity. No member of the legislature shall be questioned in any other place for any written or oral statement in the legislature or its committees and no member of the legislature shall be subject to arrest while going to or coming from a meeting of the legislature or a committee.

Section 13: Sessions. The legislature shall meet for organizational purposes on the second Monday of January in the year following the regular general election at which members of the legislature are elected and shall be a continuous body for the two years between such organizational meetings. Each house shall meet in regular sessions as provided by law or its procedures and may be convened at other times by its presiding officer or by the governor. When meeting pursuant to the governor's call, the legislature shall consider only those subjects described in the call.

Section 14: Organization and Procedures.

a) Each house of the legislature shall be the final judge of the election and qualifications of its members and the legislature may by law vest in the courts the trial and determination of contested elections of members. Each house may compel the attendance of absent members, discipline its members and, with the concurrence of three-fourths (3/4) of its members, expel a member for commission of treason, a

felony, breach of the peace, or violation of the legislature's rules.

b) Each house of the legislature shall choose its presiding officer from among its members, establish such committees as it deems necessary for the conduct of its business, and determine its rules of procedures. Each house shall have the power to compel the attendance and testimony of witnesses and the production of books and papers before such house or its committees. The legislature shall keep a journal of its proceedings which shall be published from day to day.

c) The meetings of the legislature and its Committees shall be public provided, however, that each house of the legislature and any legislative committee may meet in executive session if authorized to do so by two-thirds (2/3) of the members of the house involved. No final action on any legislative matter may be taken in executive session.

Section 15: Conduct of Members. Any member of the legislature who has a financial or other personal interest in any bill before the legislature shall disclose the fact to the house of which he is a member and shall not vote thereon. The legislature shall enact a comprehensive code of conduct for its members that prohibits certain actions by members with conflicts of interest, defines the proper scope of debate in the legislature, and deals with other germane subjects.

November 13, 1976

REPORT TO THE CONVENTION BY THE
COMMITTEE ON GOVERNMENTAL INSTITUTIONS

Subject: Committee Recommendation Number Four:
The Executive Branch of Government

The Committee on Governmental Institutions recommends that the Convention sitting as a Committee of the Whole adopt in principle the attached constitutional provisions with respect to the executive branch of government. The Committee's Recommendation does not contain any provisions concerning local government or lieutenant governors for the reasons set forth in the attachment to this Report.

The Committee believes that the Commonwealth of the Northern Mariana Islands should have an executive branch headed by a popularly elected governor and vice governor. Under the Committee's Recommendation, the governor's power would include the authority to appoint department heads with the consent of the senate and to remove them, to prepare a budget in consultation with the chief executive officers of Saipan, Rota, Tinian, and the Northern Islands, and to fill a vacancy in the office of vice governor if necessary. The Committee's recommended constitutional language also contains provisions regarding succession to the governorship, the absence or disability of the governor, the impeachment of executive branch officials, the qualifications, duties and compensation of the governor and vice governor,

the civil service system, executive and administrative departments, department of education, and the offices of attorney general and public auditor. The constitutional provisions offered by the Committee comprise an article of seventeen sections.

The principal issues considered by the Committee and the reasons for the Committee's proposed constitutional language are discussed below.

Section 1: Executive Power. This section provides that all of the executive power of the Commonwealth will be exercised by a governor and the officials specified in the article. Article II, § 203(b) of the Covenant requires that the chief executive officer of the Northern Mariana Islands be given the title of governor.

Section 2: Qualifications of the Governor. This section requires that the governor be thirty years old, possess United States citizenship or nationality, be a qualified voter of the Commonwealth, and have resided and been domiciled in the Northern Mariana Islands for the seven years immediately preceding his election. The recommended provision does, however, permit the legislature to increase or to decrease the period of residency and domicile.

The Committee believes that its proposed age requirement would promote the election of mature and experienced governors. This requirement would not, in the Committee's view, significantly reduce the number of qualified individuals available for the governorship.

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The Committee believes that its proposed age requirement would promote the election of mature and experienced governors. This requirement would not, in the Committee's view, significantly reduce the number of qualified individuals available for the governorship.

This is the same age that the Committee has recommended for judges and for the Washington representative.

Limiting eligibility for the governorship to qualified voters would ensure that candidates for the office are not mentally incompetent. It would also prevent those deprived of the franchise because of criminality from seeking the post of chief executive. The Committee believes that these protections would serve the Commonwealth well.

The Committee is persuaded that requirements of residency and domicile would produce governors who are sensitive to the needs and wishes of the Marianas people. The distance between the Commonwealth and the mainland of the United States and the limited opportunity for travel among the islands make it difficult to acquire a deep understanding of the Commonwealth's culture and its problems. The Committee believes that a minimum of seven years within the Commonwealth is presently necessary to obtain that understanding. Improved means of travel and communication may allow the reduction of the seven-year period in the future. The Committee therefore recommends that the legislature be authorized to modify the residency and domicile requirements imposed by this provision.

Section 3: Vice Governor. This section establishes the office of vice governor. The vice governor would be elected Commonwealth-wide and would be required to possess the same qualifications as those demanded of the governor. The vice

governor would be charged with performing tasks assigned by law or by the governor. The title of vice governor is selected tentatively because of the division of views within the Committee regarding the availability of the term lieutenant governor.

The Committee is persuaded that it is important to have an official available to become governor in the event of a vacancy in the office and to act as chief executive of the Commonwealth if the governor is absent or disabled. Requiring the vice governor to meet the standards of eligibility imposed on the governor and to be involved in the affairs of the Commonwealth to the extent permitted by the legislature or governor would prepare the vice governor for the chief executive's role. The Committee rejected a provision that would have assigned to the vice governor the duty of presiding over the senate. The Committee believes that such a role would compel the vice governor to perform conflicting duties in the executive and legislative branches of government.

The Committee also recommends that the governor be empowered to fill a vacancy in the office of vice governor with the advice and consent of the senate. This Committee believes that the succession of an official other than the vice governor to the governorship would disrupt the smooth operation of the affairs of the Commonwealth. Accordingly, the Committee's recommendation is designed to ensure insofar

as is practicable the presence of a vice governor in the Commonwealth administration.

Section 4: Election of the Governor and the Vice Governor. This section provides that nominees of a political party for governor and vice governor will seek office on the same ticket. The voters will choose these two officials jointly, with a vote for a gubernatorial candidate automatically being cast for the candidate's running mate. Procedures for electing the governor and vice governor will be governed by Article VIII of the Constitution, as will the date on which persons elected to these posts take office.

The joint selection of the governor and vice governor will avoid the situation where officials holding these positions are from different political parties. In the Committee's view, this shared political affiliation would afford a logical successor to the governor should he either leave office before the expiration of his term or require a temporary replacement because of absence or disability. In addition, the Committee believes that a shared platform and campaign may reflect a compatibility of political beliefs which would help the two officials to work together easily.

The Committee recommends a four-year term for the governor and vice governor. The Committee believes that a term of this length would enhance the governor's independence

in dealing with Commonwealth officials and political figures. Such a tenure would also enable the governor to fashion and execute a program for the Commonwealth, thereby benefiting the Northern Marianas people and providing them with a basis upon which to judge the administration's performance. The Committee is convinced that a four-year term would not isolate the governor from the views and needs of the people.

The constitutional language proposed by the Committee will prohibit any person from being elected to the governorship more than three times. The Committee is persuaded that this limitation is desirable to prevent the establishment of oppressive political machines and to permit new political leaders to develop. It rejects the notion that a third-term governor's "lame duck" status would substantially decrease his effectiveness.

Section 5: Compensation of the Governor and Vice Governor. Section 5 reflects the Committee's view that the governor and vice governor should receive salaries commensurate with their high offices and sufficient to free them from dependence on outside sources of income. This section provides that initially the governor will be compensated at the rate of twenty-five thousand dollars and the vice governor at the rate of twenty-two thousand dollars per year with such reasonable allowances for expenses as may be provided by law. Under article __ of the Constitution, the legislature must establish

an advisory commission on executive, legislative and judicial compensation. Upon the Commission's recommendation, the legislature may increase or decrease the governor's or vice governor's salary as long as it does not dip below the constitutional minimum. If the legislature alters the chief executive's or vice governor's salary, the changes will not be effective until the end of the incumbent's term.

The Committee believes that these provisions would foster the independence of the governor. The legislature would be precluded from reducing an unpopular chief executive's salary during his four-year term of office. Conversely, the legislature would be prevented from financially rewarding a compliant governor. Provisions regarding the compensation of the governor are crucial to the separation of governmental powers in the new Commonwealth.

Section 6: Prohibition on Government Employment.

This section forbids the governor or vice governor from holding another government position or from accepting from any governmental body remuneration other than the compensation paid to them under section 5. Either the governor or the vice governor may, however, run for any public office during their terms of office. Finally, section 6 requires the legislature to enact a code of conduct for the governor, vice governor and department heads, to require disclosure of financial or other personal interests, and to prevent conflicts of interest in the performance of official duties.

The legislature would have the authority, for example, to require that the governor not engage in private business activities and that he place all of his private commercial holdings in a "blind" trust. Under the terms of such a trust, the governor would transfer legal title in his financial interests to a trustee. The trustee would have the power to manage and dispose of assets in the trust and to acquire new holdings on the governor's behalf. The trustee would be obligated to devote his best efforts to handling the governor's property. The governor, in turn, could receive income generated by the trust but would be barred from obtaining knowledge as to acquisitions and sales of trust assets until he leaves the governorship. The trust would terminate at the conclusion of the governor's term of office.

The Committee believes that it is important constitutionally to attempt to ensure the governor's financial integrity. But the Committee is aware that over the course of time changed circumstances may necessitate the development of new procedures for achieving that objective. Accordingly, the Committee's recommended language reserves broad flexibility for the legislature, rather than prescribing specific standards that the governor must meet or particular procedures by which the chief executive may be compelled to adhere to those standards.

Section 7: Succession to the Governorship. This

section provides that if the governor is removed, dies or resigns the vice governor will take office as governor. Should the offices of governor and vice governor both be vacant, the president of the senate will serve as acting governor. An acting governor who assumes office less than one year prior to the expiration of the governor's term will complete that term. When a year or more remains in the governor's term, the acting governor will serve only until a governor is selected by special election as provided by law.

The Committee is convinced that a clear order of succession to the governorship is essential to the efficient operation of the Commonwealth government. Accordingly, the constitutional language recommended by the Committee specifies the first two officers in the line of succession. Any further designation of officers in the line of succession is left to the legislature, because the Committee desires to preserve the opportunity to place offices not created by the Constitution in the line of succession. The Committee also recognizes that the mechanism created by section 2 for filling a vacancy in the vice governorship renders unlikely the succession of the holder of any other office.

The Committee believes that only the vice governor should become governor when a vacancy in the office occurs.

The vice governor will be elected on the same ticket as the governor or be confirmed by the senate for his post. In either case, the vice governor will be selected for his capacity to succeed the governor and therefore could claim a mandate to occupy the governorship. A legislative leader, such as the president of the senate, would not command such legitimacy. As a result, if it is necessary to reach below the vice governor in the line of succession, the new chief executive would serve only as acting governor.

The Committee's awareness of the expense of a Commonwealth-wide special election prompted it to recommend that an acting governor finish a gubernatorial term with less than one year to run. The Committee believes it unwise for an acting governor to serve for longer than that amount of time. In the Committee's view, the Commonwealth needs the vigorous leadership of a public official who has sought the highest elected office in the Commonwealth. The people of the Northern Mariana Islands especially require that leadership over a significant period of time.

Section 8: Absence or Disability of the Governor.

This section provides that the vice governor will serve as acting governor if the governor is physically absent from the Commonwealth or is mentally or physically disabled. If the vice governor is also absent or otherwise unable to act as governor, the president of the senate will assume the task.

(a) Absence of the Governor. The Committee

concluded that the governor could not effectively perform his duties if he leaves the Commonwealth. The Northern Mariana Islands' physical distance from centers of population is compounded by the poor communications systems and transportation facilities serving the islands. Problems will demand solutions and decisions will require implementation during the governor's travels outside the Commonwealth. Accordingly, the Committee recommends that the Constitution provide that an acting governor will serve in the place of an absent chief executive.

The Committee decided against recommending that an acting governor assume office only if the governor is without the Commonwealth for a fixed period of time, such as five days. In the Committee's judgment, this approach would deprive the Northern Mariana Islands of executive leadership during such an interim period.

(b) Disability of the Governor. The Committee

recommends that the inability of the governor to perform his duties be decided on a case-by-case basis. Accordingly, the constitutional language offered by the Committee permits the person who would serve as acting governor if the chief executive is declared disabled to petition the court with jurisdiction over appeals from the Commonwealth trial court for such a declaration. This court is given exclusive

jurisdiction to check the question of the governor's disability and all related matters. The court's determination would be based on a hearing at which time all interested persons, including the governor, would have a full opportunity to present their views. Included in this right to be heard would be the opportunity to call expert and lay witnesses, to offer documentary evidence, and to present oral and written arguments. If the court finds that the governor is disabled, he may at any time seek a finding that the disability has ceased to exist. The court's decisions with respect to the existence and continuation of a disability will be absolutely final.

The Committee is convinced of the need for a, physically and mentally fit chief executive. At the same time, the Committee perceives the necessity of a prompt and factually objective means by which the presence of a disability may be ascertained. The procedures provided by subsection 8(b), in the Committee's view, meet this need.

The Committee believes it undesirable to involve political figures, such as members of the governor's cabinet or legislators, in this process. Reflecting this view, the proposed provision authorizes only one political official to assert the governor's disability and provides that a court composed of non-partisan judges would ascertain the validity of that assertion. The Committee

recognizes that the twenty-fifth amendment to the United States Constitution empowers the Congress to judge whether the President is disabled. The Committee is persuaded, however, that the political atmosphere prevalent in the Northern Mariana Islands would cause this approach to be undesirable.

Section 9: Executive and Administrative Functions.

Divided into four parts, this section delineates some of the major administrative and executive responsibilities of the governor. First, the Committee's recommended language will charge the governor with faithfully executing the laws.

Second, the proposed section will require the governor to consult with the (mayors) (lieutenant governors) of Saipan, Rota, Tinian and the Northern Islands in preparing the budget which the governor is obligated to submit annually to the legislature. The governor must inform the legislature of the budgetary requests of each of the (mayors) (lieutenant governors) and of his disposition of those requests. The budget will not take effect until approved by the legislature, which will have the authority to modify what the governor recommends.

Third, the suggested section requires the governor to report at least annually to the legislature with respect to the affairs of the Commonwealth and to recommend measures he considers necessary or desirable. This provision obviously does not prevent the chief executive from communicating more

frequently with the legislature.

Fourth, the language proposed by the Committee grants the governor the power to issue reprieves, commutations and pardons, after consulting with the board of parole. The section directs the legislature to create that board. The Committee's recommended provision explicitly denies the governor any authority to provide relief from a judgment of conviction upon impeachment. This means that at no time, either before or after impeachment or conviction, may the governor intrude his clemency powers into the legislature's power to remove an official.

a) Responsibility for the Faithful Execution of the Laws. The Committee's proposed language would make the governor responsible for the faithful execution of the laws. The Committee believes that, as the chief executive of the Commonwealth, the governor would possess the resources to enforce its laws and to implement the policies set by the legislature.

b) Preparation of the Budget. The Committee believes that all of the islands that comprise the Commonwealth should be adequately and equitably provided for in the Commonwealth budget. The requirements that the governor consult with the (mayors) (lieutenant governors) of Saipan, Rota, Tinian, and the Northern Islands and that he reveal his responses to their budgetary requests are designed to accomplish this objective. The islands of Tinian and Rota will enjoy an additional protection: under the proposed

language, before becoming effective the budget must be approved by the legislature. The proposed language, moreover, requires the governor to submit a budget to the legislature each year.

The Committee also realizes that efficiency is essential to the budgetary process. Accordingly, the language recommended by the Committee would vest in the governor ultimate control over the budget submitted to the legislature. In addition to expenditures, the governor will be required to specify how those expenditures will be financed. The language also provides that if, at the start of a fiscal year, the budget has not yet received approval, appropriations for governmental operations and obligations will continue at the level set for the previous fiscal year.

c) Annual Address to the Legislature. The Committee decided that the governor should be constitutionally obligated to report to the legislature at least once a year. Although the Committee feels that the governor will desire to communicate with the legislature more frequently, the recommended language reflects the Committee's belief that such a decision should be the governor's. In the Committee's view, the legislature's power to investigate the activities of the executive branch and to vote -- or deny -- appropriations for its projects is sufficient to ensure the governor's responsiveness to legislative requests for information concerning the state of the Commonwealth.

d) Clemency Power. The Committee recommends that the governor obtain the authority to extend clemency. The scope of that authority is outlined above. The Committee feels that the governor's prudent exercise of this power, in conjunction with the board of parole, would permit mercy to be extended when appropriate and wrongful convictions to be erased when necessary. The recommended language would require the governor only to discuss possible grants of clemency with the board; he need not heed their advice. The constitutional provision offered by the Committee will preclude the governor from preventing or vacating the impeachment or removal of a Commonwealth official. In the Committee's opinion, the legislature should exercise an unfettered, hand in removing unfit public officials.

Section 10: Emergency Powers of the Governor.

This section authorizes the governor to declare a state of emergency if the Commonwealth is invaded, if a civil disturbance erupts, if a disaster strikes or if another calamity occurs. The recommended language empowers the governor to amass all available resources of the Commonwealth in reacting to an emergency. The Committee expects that under such circumstances the governor would promptly request assistance from the United States. The Committee believes that this provision would facilitate the Commonwealth's rapid and effective response to an emergency.

The Committee decided against providing for the creation of a Commonwealth militia in the proposed article in the executive branch. The Committee believes that the Northern Mariana Islands could ill afford to finance a military organization, especially in light of the United States' responsibility under article I, section 104 of the Covenant to defend the Commonwealth from attack. The recommended language would, nonetheless, permit the legislature to establish a militia in the future.

Section 11: Attorney General. This section creates the office of attorney general. The governor will appoint this official with the advice and consent of the senate. This Committee's proposed language confers three duties on the attorney general. First, that official will advise the governor and the heads of executive departments on legal matters. Second, he will represent the Commonwealth when it wishes to assert its claims in court or it is sued. Third, the attorney general will function as the chief law enforcement officer of the Northern Mariana Islands.

The Committee believes that authorizing the governor to appoint the attorney general will lead to the designation of more qualified persons. The Committee believes that eminent lawyers who would bring valuable talents to the attorney generalship might not seek the

office if they must engage in a political campaign to win election. In addition, the Committee anticipates that an appointed chief law officer of the Commonwealth would enjoy a greater degree of popular respect than would an elected official.

The Committee's language will not prevent the governor from retaining counsel other than the attorney general should the legislature appropriate funds for that purpose.

Section 12: Public Auditor. Section 12 requires the governor to appoint a public auditor subject to confirmation by both houses of the legislature. An official independent of the control of the governor and of the legislature, the public auditor will audit the Commonwealth government's handling of funds. The public auditor's jurisdiction will extend to every branch and agency of the government. The public auditor must report annually to the governor and legislature. The report must be released promptly to the public. To secure the auditor's independence and to insulate his office from political pressures, the draft section provides that he will be removable only for cause and with the affirmative vote of two-thirds of the members of the legislature. If a vacancy occurs, the presiding officer of the senate will designate an acting public auditor who will occupy the office until a permanent replacement is chosen.

The Committee believes that the establishment of the office of public auditor is vital to the financial

integrity of the Commonwealth government. The Committee feels that the public auditor would scrutinize carefully the accounts of the government without interfering with its operations.

Section 13: Department of Education. This section reflects the Committee's view that the importance of education to the new Commonwealth requires that the Constitution guarantee the creation of a board of education and a department of education. The recommended language directs the board to appoint a superintendent of education, who will head the department. The board may remove the superintendent. The board will determine and implement policy through the superintendent.

The members of the board will be appointed by the governor with the consent of the senate; the membership of the board will represent the geographical and other communities of the Northern Mariana Islands. The legislature will determine the number of board members and the length of their term. The legislature will also decide such details as whether board members may be removed prior to the expiration of their term and, if so, the means of removal.

Section 14: Heads of Executive Departments. This section provides that each principal department shall be

under the supervision of the governor and, unless otherwise provided in the Constitution or by law, shall be headed by a single executive. It also provides that the governor may appoint the heads of the executive departments with the advice and consent of the senate and will possess the power to remove these officials. All other officials will be appointed and removed as provided by law. Finally, the proposed language requires officers of the executive branch to furnish information in writing or otherwise to the governor.

The first provision in this section is designed to prevent departments headed by more than one official, a practice that virtually ensures inefficient management. Regarding the governor's appointment power, the Committee believes that the chief executive must command the loyalty of his principal associates in the executive branch if he is to govern effectively. The Committee believes that its recommended section 14 would allow the governor this necessary control over his department heads while affording the senate the opportunity to scrutinize the qualifications of the governor's appointees before they assume office. In the Committee's judgment, the force of popular opinion will also serve as an incentive to the governor to select highly qualified persons to head the executive departments.

Section 15: Executive and Administrative Departments. This section is designed to facilitate and simplify

control of the Commonwealth government. It provides that no more than fifteen executive branch departments can be created, exempting regulatory, quasi-judicial and temporary agencies established by law. It is the legislature's responsibility to establish departments, define their functions, powers and duties and make changes as appropriate. This section also provides, however, that the governor can take the initiative in administrative reorganization. If any changes in the law are required, this section authorizes the governor to effect such changes by executive orders, provided that such orders are not modified or disapproved by a majority of the legislature within sixty days after their submission.

The Committee believes that a flexible provision of this kind will assist the governor to administer an effective government. There is certainly no magic in the number fifteen; the Model State Constitution uses the figure of twenty, and some state constitutions go lower. Such a limitation prompts the legislature to exercise greater care in the establishment of new agencies, compels a continuing review of the administrative structure, protects the legislature from undue pressures to create new departments, and helps ensure that the governor has a manageable "span of control" over departments. Giving the governor the authority to institute reorganization seems particularly useful, since it is the governor who carries the responsibility for executing Commonwealth policies and providing public services in the most orderly and cost effective manner.

Section 16: Civil Service Commission. This provision obligates the legislature to create a non-partisan and independent civil service commission. The recommended section requires the commission, in turn, to base standards governing initial selection for the civil service and promotion within the service upon merit and fitness. These qualities will be gauged by objective indicia whenever possible. The Committee is persuaded that a civil service system predicated on merit would improve the quality of the functions performed by the executive and judicial branches of government.

Section 17: Impeachment of Executive Officials. The Committee recommends that only elected officials within the executive branch be subject to removal upon impeachment as provided in article II of the Constitution. The Committee believes that impeachment is a necessary check on the power of these officials, but did not wish to risk the possibility of legislative intimidation of appointive officials. In order to limit further the risk of legislative intrusions into the executive branch, however, the grounds for impeachment are limited to treason, commission of a felony, corruption, and neglect of duty. The Committee feels that the governor's authority to remove department heads and the department's capacity to discharge those under its jurisdiction under civil service rules would be sufficient safeguards against official or personal abuses by appointed employees in the executive branch of government.

The Committee recommends the adoption of this
recommended article on the executive branch.

Respectfully submitted,

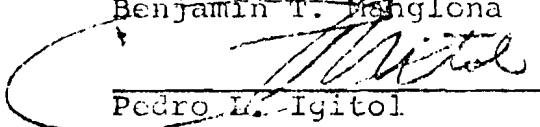
Jose P. Mafnas, Chairman

Prudencio T. Manglona,
Vice Chairman

Gregorio S. Calvo

David M. Atalig

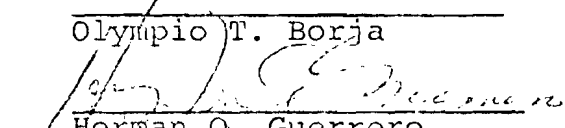
Benjamin T. Manglona

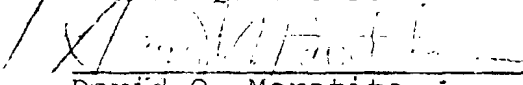

Pedro M. Igitol

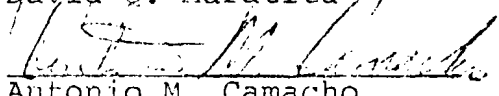
Jose R. Cruz

Joaquin S. Torres

Olympio T. Borja


Herman Q. Guerrero


David Q. Maratita


Antonio M. Camacho

Vincente T. Attao

Statement of the Committee on
Governmental Institutions
Regarding Local
Government and Lieutenant
Governors

The members of the Committee on Governmental Institutions have spent many days in considering various proposals relating to local government and the responsibility for delivery of public services on the individual islands under the new Commonwealth. These proposals have generally focused on the creation of certain offices on each island -- called either a mayor or lieutenant governor -- who are popularly elected by the people on that island and have certain powers regarding local matters and the delivery of public services. One such proposal (creating the office of mayor) was incorporated in the proposed article on local government and was adopted in principle by a slim majority of the Committee of the Whole on November 11, 1976. This Committee has been considering another such proposal, creating the office of lieutenant governor with greater power over public services than the powers possessed by the mayors to be established under the local government article. This proposal has not been incorporated in the recommended article on the executive branch and this brief statement is designed to summarize the positions of the Committee members on this issue.

Several members of the Committee strongly support the lieutenant governor proposal advanced by the delegates from Rota and Tinian. These supporters believe that an office should be created that possesses supervisory power over the delivery of public services on each island, including the power to appoint supervisory personnel and to expend appropriated funds. It is not important whether the official be called a mayor or a lieutenant governor so long as the office possesses the necessary powers. The delegates from Rota and Tinian emphasize that these full powers are necessary to ensure that the injustices of the past are not repeated on their islands under the new Commonwealth. Without an adequate provision in the Constitution (either in the local government article or executive branch article), the delegates from Rota and Tinian maintain that they would prefer to remain under the present system of government in the Northern Marianas.

The other members of the Committee have decided that further debate on this issue at this time is not useful. Many of these members oppose the lieutenant governor proposal as being impractical, expensive and unnecessary. Others simply want more time to consider the matter. These members of the Committee believe that the Special Committee appointed by President Guerrero should be given time to discuss the issue and look for an acceptable compromise. These

members of the Committee respect the deeply-held views of their fellow delegates from Rota and Tinian and recognize that no Constitution is possible without support from the Rota and Tinian delegations. These members of the Committee urge the Convention to consider the recommended article on the executive branch without any renewed discussion on the lieutenant governor (mayor) issue until such time as the Special Committee completes its work.

ARTICLE _____
THE EXECUTIVE BRANCH
OF GOVERNMENT

Section 1: Executive Power. The executive power of the Commonwealth shall be vested in a governor and the other officials specified in this article.

Section 2: Qualifications of the Governor. The governor shall be a qualified voter of the Commonwealth, at least thirty years of age, a citizen or national of the United States and a resident and domiciliary in the Commonwealth for at least seven years immediately preceding his election. A different period of required residence or domicile may be provided by law.

Section 3: Vice Governor. A vice governor with the qualifications prescribed in section 2 shall perform those duties assigned by the governor or provided by law. Whenever the office of vice governor is vacant, the governor shall appoint a successor with the advice and consent of the senate.

Section 4: Election of the Governor and the Vice Governor. The governor and vice governor shall be elected at large within the Commonwealth at a regular general election and shall take office as provided by article VIII. The governor and vice governor shall be elected jointly for a

term of four years with each voter casting a single vote applicable to both offices. No person shall be elected governor more than three times.

Section 5: Compensation of the Governor and Vice Governor. The governor shall receive an annual salary of twenty-five thousand dollars and the vice governor an annual salary of twenty-two thousand dollars. Both shall receive such reasonable allowances for expenses as may be provided by law. Upon the recommendation of the advisory commission on executive, legislative and judicial compensation created by article of this Constitution, the legislature may increase or decrease the governor's or vice governor's salary provided, however, that neither salary shall be increased or diminished during the period for which the governor or vice governor shall have been elected.

Section 6: Prohibition on Government Employment. The governor or vice governor may not serve in any other government position or receive any compensation for performance of his official duties or from any governmental body except that provided by section 5. The governor and vice governor may each seek any public office during their term. The legislature shall enact a code of conduct for the governor, vice governor and heads of executive departments to require disclosure of financial or other personal interests and to prevent conflicts of interest in the performance of official duties.

Section 7: Succession to the Governorship. In case of the removal, death or resignation of the governor, the vice governor shall become governor. If the offices of governor and vice governor are both vacant, the president of the senate shall become acting governor. An acting governor who assumes office when more than one year remains in the term shall serve only until a governor is chosen in a special election as provided by law.

Section 8: Absence or Disability of the Governor.

(a) When the governor is physically absent from the Commonwealth, the vice governor shall be acting governor. If the vice governor is also absent or is otherwise unavailable, the president of the senate shall be acting governor.

(b) When the governor is unable to discharge the duties of his office by reason of impeachment or other disability, including but not limited to physical or mental disability, the vice governor shall be acting governor. If the vice governor is unavailable to serve, the order of succession to the office of acting governor shall be the same as if the governor were physically absent from the Commonwealth. If the person next in succession to the governor has reason to believe that the governor is unable to discharge the duties of his office, that person shall inform the Commonwealth appeals court or the United States District Court if no Commonwealth appeals court has been created under section __ of article __. The court shall have original, exclusive and final jurisdiction

to determine all questions regarding disability of the governor, the existence of a vacancy in the office of governor, and succession to the office or its powers and duties.

Section 9: Executive and Administrative Functions.

(a) The governor shall be responsible for the faithful execution of the laws.

(b) The governor shall prepare and submit to the legislature a proposed annual budget for the following year. The budget shall describe all anticipated revenues of the Commonwealth and shall include recommended legislation with respect to taxation if necessary. The budget shall also recommend expenditures of Commonwealth funds. In preparing the budget, the governor shall consider submissions made by the (mayors) (lieutenant governors) of Saipan, Rota, Tinian and the Northern Islands as to the budgetary needs of those islands. The governor's submission to the legislature shall state the governor's disposition of the budgetary requests of each (mayor) (lieutenant governor). After approval by the legislature, the governor may not reprogram appropriated funds except as provided by law. If the budget is not approved before the start of that fiscal year, all appropriations for government operations and obligations shall be continued at the level for the previous year.

(c) The governor shall report at least annually to the legislature regarding the affairs of the Commonwealth and recommending measures he considers necessary or desirable.

(d) The governor shall have the power to grant reprieves, commutations and pardons after conviction for all offenses after consultation with a board of parole to be created by law, provided, however, that this power shall not apply to impeachments or to removals following impeachments.

Section 10: Emergency Powers of the Governor. The governor shall have the power to declare a state of emergency in the case of invasion, civil disturbance, natural disaster or other calamity and may mobilize all available resources to respond to that emergency.

Section 11: Attorney General. The governor shall appoint an attorney general with the advice and consent of the senate. The attorney general shall serve as legal adviser to the governor and executive departments, shall be responsible for representation of the Commonwealth government in all legal matters, and shall serve as chief law enforcement officer with responsibility for prosecuting violations of Commonwealth law.

Section 12: Public Auditor. The governor shall appoint a public auditor with the advice and consent of the legislature. The public auditor shall audit the receipt, possession and disbursement of all public funds by any branch, agency or department of the Commonwealth and shall perform other duties as provided by law. The public auditor shall report his findings to the legislature and the governor at

least once every year and such report shall promptly be made public. The public auditor may be removed only for cause and with the concurrence of two-thirds of the members of the legislature. In the event that there is a vacancy in the office of public auditor, the presiding officer of the senate shall appoint a temporary public auditor who shall serve until the governor appoints a successor with the advice and consent of the legislature.

Section 13: Department of Education. The legislature shall establish a department of education headed by a superintendent of education appointed by a representative board of education. The members of the board of education shall be appointed by the governor with the advice and consent of the senate and shall formulate policy and exercise control over the public school system through the superintendent. The composition of the board of education and other matters pertaining to its operations and duties shall be provided by law.

Section 14: Heads of Executive Departments. Each principal department shall be under the supervision of the governor and, unless otherwise provided in this Constitution or by law, shall be headed by a single executive. The governor may appoint the heads of executive departments with the advice and consent of the senate. The governor may remove the heads of executive departments. All other officers employed by the Commonwealth shall be appointed and may be

removed as provided by law. The governor may at any time require information in writing or otherwise from the officers of any administrative department, office or agency of the Commonwealth.

Section 15: Executive and Administrative Departments.

All executive and administrative offices, agencies and instrumentalities of the Commonwealth government, and their respective functions, powers and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial and temporary agencies need not be allocated within a principal department. The legislature shall by law prescribe the functions, powers and duties of the principal departments and of all other agencies of the Commonwealth and may from time to time reallocate offices, agencies and instrumentalities among the principal departments, and may change their functions, powers and duties. The governor may make such changes in the allocation of offices, agencies and instrumentalities and in the allocation of their functions, powers and duties as he considers necessary for efficient administration. If such changes affect existing law, they shall be set forth in executive orders which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

Section 16: Civil Service Commission. The legislature shall provide for a non-partisan and independent civil service commission to establish and administer the personnel policies applicable to executive and administrative departments and to the staff of the judicial branch of government. Appointments and promotions within the civil service shall be based on merit and fitness demonstrated by examination or by other evidence of competence.

Section 17: Impeachment of Executive Officials. The governor, vice governor and other elected officials of the Commonwealth government shall be subject to impeachment as provided in article ___ of this Constitution. Such officers may be impeached and removed only for treason, commission of a felony, corruption or neglect of duty.

October 22, 1976

REPORT TO THE COMMITTEE OF THE WHOLE
OF THE COMMITTEE ON PERSONAL RIGHTS
AND NATURAL RESOURCES

Subject: COMMITTEE RECOMMENDATION Number 1:
Eligibility to Vote

The Committee recommends that the Committee of the Whole adopt in principle the constitutional provision attached hereto with respect to eligibility to vote.

The Committee considered the matter of eligibility to vote and election procedures and decided that the provisions with respect to eligibility to vote should be a separate Constitutional article and should be transmitted separately for the consideration of the Convention.

The Committee's proposed article contains three sections.

The first section sets out the six basic qualifications for voting.

- . attainment of 18 years of age
- . domicile in the Northern Mariana Islands
- . residence in the Northern Mariana Islands
- . no current serving of a sentence for any crime other than a misdemeanor having a maximum sentence of six months or less
- . no adjudication of unsound mind by a court of law
- . either U.S. citizenship or U.S. national status

The second section prohibits the use of any literacy requirement as a qualification to vote. The third section requires the legislature to set out the criteria for determining domicile and residence in the Northern Mariana Islands and to specify the length of the residence requirement.

The Committee's reasons for recommending each of these requirements are set out below:

Section 1: Qualifications of Voters

Subsection (a): Age. The Committee recommends that the minimum age requirement of the Twenty-Sixth Amendment of the United States Constitution be adopted for use in the Commonwealth. That minimum age requirement is 18 years. The Committee believes that requiring voters to be at least 18 years of age will promote responsible, intelligent and mature voting.

The Committee considered lowering the age requirement to 17 years as would be permitted under the United States Constitution. This would recognize the fact that currently over half of the people in the Northern Mariana Islands are under the age of 18. It would also recognize the fact that persons aged 17 may volunteer to serve in the Armed Forces. The Committee decided against such a lower minimum age requirement because the greater maturity generally available at age 18 would be important with respect to voting, the experience of all of the states indicates that a minimum age requirement of 18 years is practical, and lowering the

age requirement to accommodate the present portion of the population that is below the age of 18 looks too much to the present instead of to the future when those under the age of 18 will be old enough to vote.

Subsection (b): Domicile. The Committee's proposed constitutional provision requires domicile in the Northern Mariana Islands in order to qualify to vote. The provision directs the legislature to define the criteria for determining domicile for voting purposes. The Committee believes that a domicile requirement ensures that only those who intend to make their permanent home in the Northern Mariana Islands will be eligible to vote. This prevents persons who may live in the Northern Mariana Islands for some period of time, but who maintain a permanent residence elsewhere, from voting in the Northern Mariana Islands. The Commonwealth will have a small population whose interests could be adversely affected if persons who come to the Northern Mariana Islands without any intention to stay permanently are permitted to vote.

Subsection (c): Residence. The Committee's proposed constitutional provision also requires residence for a specified period of time in the Northern Mariana Islands in order to qualify to vote. This requirement operates together with the domicile requirement to ensure that persons who have an intention to remain permanently in the Northern Mariana Islands demonstrate that intention by actually

residing in the Commonwealth for a specified period of time.

The Committee decided not to include a length of residence requirement in the Constitution because of the risk of conflict with recent U.S. Supreme Court decisions. Those decisions have allowed 30-day residence requirements (and 50-day residence requirements in two special circumstances), but have prohibited longer durational residency requirements. Instructing the legislature to determine the length of residence required for voting fulfills the need for such a requirement without jeopardizing the Constitution's chance of acceptance by the U.S. Congress. It allows the legislature the flexibility to establish a length of residence requirement in accordance with U.S. Supreme Court decisions.

The Committee decided that the best way to keep outsiders from voting in the Northern Mariana Islands was not a long and possibly unconstitutional residency requirement, but a requirement that all voters be bona fide residents of the Northern Mariana Islands. Therefore, the proposed constitutional provision requires the legislature to determine residence and domicile in the Northern Mariana Islands for voting purposes. A possible list of such criteria is attached to this report.

Subsection (d): Criminal sentence. The Committee decided that persons should be ineligible to vote who are, at the time of the election, serving a sentence after conviction of any crime other than a misdemeanor having a maximum sentence of six months or less. The Committee intends that persons on parole or probation or under a suspended sentence would also be disqualified. The Committee believes that persons who have been convicted of such crimes have demonstrated that they are not responsible enough to vote. However, the Committee believes that the disqualification should not extend any longer than the sentence by which such a person pays his debt to society. Therefore, under the Committee's proposal, the disqualification would end when the sentence was served or a pardon was granted.

The Committee considered limiting the voting disqualification to conviction of a felony. This approach was rejected because many misdemeanors involve very serious violations. The Committee's attention was drawn to an instance in which a man threw a child against a wall and otherwise abused it but was charged only with assault and battery, which is a misdemeanor. The Committee also considered leaving to the legislature the task of defining the crimes for which conviction would carry with it a disqualification from voting. The Committee believed that it was unlikely that this was a situation where circumstances might change over time so as to make flexibility desirable, therefore the Committee rejected this approach.

Subsection (e): Unsound Mind. The Committee decided to disqualify from voting those persons who had been found by a court of law to be of unsound mind. The Committee believes that such persons do not have the capacity to vote responsibly.

The Committee recognizes that there are persons of unsound mind other than those who have been found to be of unsound mind by a court. The Committee decided to limit the disqualification to those persons as to whom a court had acted because the disqualification from voting is a serious matter and should be determined fairly. If the matter of unsound mind is determined by a court, then evidence must be presented, usually by a doctor or psychiatrist, and the protections of due process are available.

Subsection (f); U.S. Citizenship and U.S. National Status. The Committee considered three groups of persons with respect to a possible citizenship requirement for voting: aliens, U.S. citizens, and U.S. nationals.

The Committee decided that aliens should not be permitted to vote in the Northern Mariana Islands. The Committee believes that aliens do not have the requisite stake in the affairs of the Northern Mariana Islands to permit them to vote. By definition, aliens owe allegiance to some other country. The Committee believes that allegiance to the Commonwealth should be required before any person is permitted to vote.

The Committee gave lengthy consideration to the question whether residents of the Northern Mariana Islands who elect to be U.S. nationals rather than U.S. citizens should be permitted to vote. The Committee was concerned primarily with the large group of U.S. nationals that exists elsewhere in the Trust Territory. The Committee considered whether a requirement of U.S. citizenship (that would disqualify U.S. nationals) would be in the best interests of the Commonwealth. On the one hand, this restriction would disqualify some residents of the Northern Mariana Islands. On the other hand, this restriction would help prevent large numbers of U.S. nationals from other places from coming to the Northern Mariana Islands and qualifying to vote, thus diluting the control that the current residents have. The Committee decided that this is a matter where circumstances might change in the future and therefore some flexibility should be given to the legislature. The proposed Constitutional provision permits U.S. nationals to vote at the present time but permits the legislature, by law, to disqualify U.S. nationals at some time in the future should circumstances require that protection.

Section 2: No literacy requirement. The Committee decided that no person should be deprived of the right to vote because he or she is unable to read or write. The Committee believes that many people in the Northern Mariana

Islands who cannot read or write are able to vote intelligently. Because the right to vote is a fundamental right, the Constitution should protect that right whenever possible. The Committee noted the example of Puerto Rico where a constitutional prohibition on literacy tests was adopted at a referendum in 1970. The Committee also took into account the strong opposition of the U.S. Congress to literacy tests.

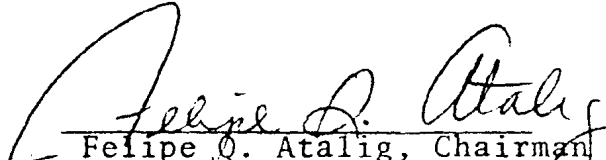
The Committee considered leaving the matter of literacy tests to legislative discretion because of the difficulty of predicting whether the Northern Mariana Islands will need a literacy requirement in the future. The Committee decided, however, for the reasons stated above, that this was an area where the legislature should not have flexibility.


Section 3: Domicile and Residence. The Committee's recommended provision includes requirements for domicile and residence, as explained above, but does not define either of these terms. The Committee believes it is appropriate to leave these definitions to the legislature because the criteria for determining domicile or residence may change over time. The legislature would also be able to adjust these definitions as the court decisions expand or contract the permissible area of restrictions.


The Committee has also left the task of specifying the length of the residence requirement to the legislature.

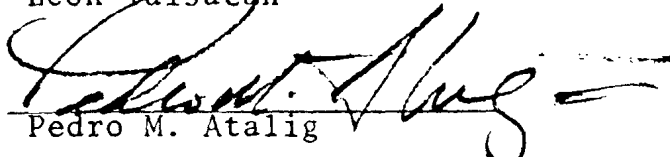
The United States Supreme Court has placed restrictions on the use of a length of residence requirement for voting. It has, in its decisions, indicated that a 30-day requirement is permissible and that a 50-day requirement may be permissible under certain circumstances. The Court is likely to find any requirement beyond 50 days to be unconstitutional. The Committee believes that a 60-day or 90-day residence requirement would be desirable but also believes that this is more appropriately done by statute. If the length-of-residence requirement is in a statute, only the statute could be challenged as unconstitutional. Moreover, if the Supreme Court indicates in the future that a longer residence requirement is permissible under circumstances applicable to the Northern Mariana Islands, the legislature could move promptly to amend the statute and take advantage of the opportunity to impose a more stringent requirement.

Respectfully submitted for
the Committee


Felipe Q. Atalig, Chairman


Francisco T. Palacios,
Vice Chairman


Leon Taisacan


Pedro M. Atalig

Luis Limes

Luis Limes

Felix A. Ayuyu

Felix A. Ayuyu

Juan S. Demapan

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Manuel A. Tenorio

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Jose S. Borja

Jose S. Borja

Daniel P. Castro

Daniel P. Castro

Henry U. Hofschneider

Henry U. Hofschneider

Hilario F. Diaz

Hilario F. Diaz

Attachment to Report

Possible Criteria for Determining Domicile and Residence for Voting Purposes

In order to be domiciled in the Northern Mariana Islands for voting purposes, a person must maintain a residence in the Northern Mariana Islands with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever absent, even for an extended period. A person can have only one domicile. A domicile cannot be lost until a new one has been acquired.

The intention to continue a residence in the Northern Mariana Islands shall be presumed not to exist if any of the following criteria are met:

- a) maintenance of a permanent residence or place of abode outside of the Northern Mariana Islands;
- b) maintenance of a current registration or qualification to vote in a place other than the Northern Mariana Islands;
- c) presence in the Northern Mariana Islands solely as the result of employment;
- d) presence in the Northern Mariana Islands solely as the result of employment of a spouse, relative or other person upon whom the prospective voter is economically dependent;
- e) support of a spouse or family in a place other than the Northern Mariana Islands;
- f) payment of taxes imposed by reason of residence in a place other than the Northern Mariana Islands;
- g) maintenance of a motor vehicle registration, driver's license or boat license in a place other than the Northern Mariana Islands.

ARTICLE _

Eligibility to Vote

Section 1: Qualifications of Voters. Any person is eligible to vote who, at the date of the election, meets each of the following requirements:

- a) is 18 years of age or older
- b) is domiciled in the Commonwealth
- c) is a resident of the Commonwealth and has resided in the Commonwealth for a period specified by law
- d) is not serving a sentence for any crime other than a misdemeanor having a maximum sentence of six months or less
- e) is not of unsound mind as adjudicated by a court of law
- f) is either a United States citizen or a United States national, provided however, that the legislature may, by law, provide that United States nationals are not eligible to vote

Section 2: No Literacy Requirement. No person may be denied the right to vote because such person is unable to read or write.

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

October 22, 1976

REPORT TO THE COMMITTEE ON THE WHOLE
OF THE COMMITTEE ON PERSONAL RIGHTS
AND NATURAL RESOURCES

Subject: COMMITTEE RECOMMENDATION NO. 2:
Elections and Election Procedures

The Committee on Personal Rights and Natural Resources recommends that the Committee of the Whole adopt in principle the attached Constitutional provision with respect to elections and election procedures.

The Committee recommends that a separate article of the Constitution be devoted to elections and election procedures and that this article have four sections that cover general elections, other elections, election procedures and taking office after elections.

The reasons for the Committee's recommendations are set out below.

Section 1: General Elections. The Committee recommends that there be one regular general election throughout the Commonwealth and that this election be held on the first Sunday in November. The Committee further recommends that all Commonwealth officers be elected at this general election. This would include all the elected officials from the executive branch, the legislative branch, the Washington Representative, and any other officials whose election is provided for in the Constitution.

The Committee has three reasons for this recommendation. First, consolidating the election of all

Commonwealth officers into one general election is less costly than conducting several separate elections. Second, voter interest and attention would be concentrated on the important Commonwealth election contests. Third, not all Commonwealth officers would be standing for election every year and the number of offices to be filled at the general election in any given year, therefore, will not be so great as to cause voter confusion.

Section 2: Other Elections. The Committee recommends that the legislature be given the responsibility of providing for other elections. This would include local government elections and special elections not provided for by the Constitution. This provision is intended to permit the legislature to make a judgment whether it would be useful to consolidate local elections with the regular general elections or to hold them separately at different times. This provision would also permit the legislature to delegate the responsibility for providing for local elections to the local government units themselves.

Section 3: Election Procedures. This provision delegates to the legislature the responsibility of providing for the details of election procedures. The Committee makes this recommendation because it believes these matters are more appropriately governed by statute. Election procedures often need to be modified and these modifications should not require a constitutional amendment.

Under this provision the legislature may provide for such things as the resolution of contested elections, voting protections (protecting voters from arrest, service of process or jury duty during the time they are voting), absentee voting, secrecy in voting, language aid to voters who do not speak English, Chamorro or Carolinian, definitions of and penalties for election fraud, election holidays, method of voting (ballot, punch card, or voting machine), party voting, ballot format, methods of counting votes, methods of supervising voting places, selection of election officials, voter registration, primary elections and other nominating procedures.

These matters are currently within the jurisdiction of the legislature and the Committee believes that this system should be continued.

Section 4: Taking Office After Elections.

The Committee recommends that there be a uniform provision with respect to taking office after election. The Committee's proposed constitutional provision requires that all Commonwealth officers elected at the regular general election in November take office on the second Monday of January of the following year. This would also apply to any local government or other officials elected at the general election if that were specified by the legislature.

The Committee believes that it is important to have an orderly succession to office. This provision leaves approximately two months, between the first Sunday in November and the second Monday in January, for the transition from one office holder to another to be completed. The Committee believes that this is sufficient time to provide for orderly transition while not leaving hold-over officers in office too long after they have been defeated at the polls. The Committee considered designating the first day of January but decided that the date on which officers would take office should not fall on a holiday.

Respectfully submitted,

/s/ Felipe Q. Atalig

/s/ Francisco Palacios

/s/ Leon Taisacan

/s/ Pedro M. Atalig

/s/ Luis Limes

/s/ Felix A. Ayuyu

/s/ Juan S. Demapan

/s/ Manuel A. Tenorio

/s/ Ramon G. Villagomez

/s/ Jose S. Borja

/s/ Daniel P. Castro

/s/ Henry U. Hofschneider

/s/ Hilario F. Dias

ARTICLE _____

Elections

Section 1: General Election. The election of officers of the Commonwealth provided for by Article _____ (Executive Branch), Article _____ (Legislative Branch), and Article _____ (Washington Representative) of this Constitution shall be held on the first Sunday in November. This election shall be the regular general election of the Commonwealth.

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

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

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

REPORT TO THE COMMITTEE OF THE WHOLE OF THE
COMMITTEE ON PERSONAL RIGHTS AND NATURAL RESOURCES

Subject: COMMITTEE RECOMMENDATION NO. 3:
Initiative, Referendum and Recall

The Committee recommends that the Committee of the Whole adopt in principle the constitutional provision attached hereto with respect to initiative, referendum and recall.

The Committee considered these matters together with eligibility to vote and election procedures and recommends that there be a separate constitutional article dealing with initiative, referendum and recall, but that all three of these means of direct citizen participation in government be provided for in one article.

The reasons for the Committee's recommendation are set out below.

Section 1: Initiative. The initiative is the means by which the voters can enact legislation directly. The Committee believes that the initiative is an important check on the Legislature. If the Legislature fails to enact a law that the voters want to have enacted, the voters should have a method of enacting that law directly, without waiting for the Legislature to act or for the next general election to elect legislators who will act. The Committee believes that this power should be reserved to the people, and that a Constitutional provision is the appropriate way to accomplish this objective.

Subsection (a): The provision recommended by the Committee is a simple one. It requires only that the initiative petition state the full text of the law to be enacted and that it be signed by at least twenty percent of the qualified voters in the Commonwealth.

The Committee recommends that the full text of the proposed law be stated in the petition so that those who sign the petition will know precisely what they are supporting.

The Committee recommends that a petition be required to be signed by twenty percent of the qualified voters in the Commonwealth for two reasons: (1) Initiative petitions should be put on the ballot only if they have a reasonable chance of passing. If at least twenty percent of the qualified voters sign the petition, that is an indication that the proposed law has a reasonable chance of passing when it is put to the voters. (2) There is a relatively small number of qualified voters in the Northern Mariana Islands at the present time and these voters are concentrated in relatively small geographic areas. Therefore, it is not unreasonable or unduly burdensome to require those who would propose legislation by this method to get the support of at least twenty percent of the voters before the matter is put on the ballot.

The Committee specified a percentage of the qualified voters rather than a specific number of qualified voters (such as 500 or 1,000) so that the Constitution can be flexible and apply with the same force as the population grows. If the Committee had required that petitions be signed by 1,000 qualified voters, that would be about 17% of the qualified voters at present, but as the number of qualified voters increased (through increases in the population) that requirement of 1,000 signatures would represent a decreasing, and therefore less stringent, percentage of the total number of qualified voters.

The Committee specified a base of the total number of qualified voters rather than the total number of votes cast in some previous election or the total number of persons of voting age in order to apply the same requirement to all initiative petitions and to relate the requirement to those who actually could vote. If the number of votes cast in a previous election were used as a base, and that election happened to have a very small voter turnout, then it would be relatively easy to get the required number of signatures on the petition. Then in the following year, if there was a hotly contested election and the voter turnout was very large, getting the required number of signatures on the petition would be much more difficult. If the requirement were based on the number of persons of voting age it might

be unrealistic. Not everyone of voting age will be eligible to vote. If the Legislature requires registration, for example, a person who is not registered cannot vote, even though he is of voting age. Requiring signatures from twenty percent of the persons of voting age might be the same as requiring twenty-five or thirty percent of the persons actually qualified to vote. The committee believes that such a requirement would be too stringent.

The Committee considered a requirement that an initiative petition be signed by twenty percent of the qualified voters in each chartered municipality rather than twenty percent of the qualified voters in the Commonwealth. This would ensure that no legislation could be proposed by means of the initiative without significant voter support in Rota and Tinian. The Committee rejected this approach because the twenty percent requirement is only applicable to putting an initiative proposal on the ballot. After being put on the ballot, the proposal must be approved by a majority of the votes cast. The Committee believes that the requirement for the signatures of twenty percent of the Commonwealth voters is sufficient protection against abuse of the initiative.

Subsection (b): This section provides a mechanism for verifying that the signatures on the petition actually are of persons who are qualified to vote and that the number of signatures is at least twenty percent of

those qualified to vote. This subsection (together with subsections (c) and (d)) makes this Constitutional provision self-executing. It does not require any action by the Legislature, and it directs the Executive Branch to take certain actions. This ensures that there will be no interference with the people's right to use the initiative.

Subsection (c): This section specifies when the petition will be submitted to the voters. The next general election was specified because it is less costly to the Commonwealth government than using special elections. Waiting for the next general election may result in some delay before an initiative petition can be submitted to the voters (for example, an initiative petition that was completed in January would have to wait for the next general election in the following November), however this delay would never be for more than a year and that length of time did not seem inappropriate to have legislation pending. Moreover, providing that initiative petitions be considered at the next regular general election permits the voters to decide on all of the proposals that have been made in the preceding year.

Subsection (d): This section specifies when the new law that has been approved by the voters will go into effect. If the petition is successful, the new law will become effective 30 days after the election. There may be special circumstances when the supporters of the

petition will want the new law to come into effect in a shorter or longer time. This provision permits the petition to state when it will come into effect to take account of such special circumstances. In these cases, the voters will be approving not only the substance of the new law but its proposed effective date as well.

Section 2: Referendum. The Committee believes that the referendum should be available to the people to reject a law passed by the Legislature that is not acceptable. This is also an important check on the power of the Legislature. The provision for the referendum is constructed in the same fashion as the provision for the initiative.

Subsection (a): The basic provision is very simple. It requires that the petition set out the full text of the law that is sought to be rejected so that the persons who are signing the petition know precisely what they are supporting. It also requires that the petition be signed by at least twenty percent of the qualified voters within the Commonwealth. The reasons for the Committee's choice in this regard are the same as are stated above with respect to the initiative.

The Committee considered the problem that legislation to be challenged by a referendum petition could continue in effect during the time the petition was being circulated and prior to the next regular general election. The Committee considered providing that no legislation would go into effect

for a period of 90 days during which referendum petitions could be circulated. If the petition were completed successfully within 90 days, the legislation would be suspended until the election. The Committee rejected this approach because it represents a substantial interference with the legislative process and because the adverse impact of having legislation in effect during the time before the voters decided on the referendum petition was not sufficient to justify this substantial interference.

Subsections (b)(c) and (d): This section also includes provisions that are intended to make this section self-executing. No action by the Legislature will be necessary and the Executive Branch is directed to take certain actions. This will minimize interference by the government with the use of the referendum by the people. These provisions are the same as those for initiative, and the Committee's reasons for recommending them are the same as those set out above under the explanation of the Committee's recommendations on the initiative.

Section 3: Recall. The Committee believes that the recall should be available to the people to remove from office an elected official who has some length of time left in his term of office but who has not acted properly. The Committee recommends that the recall apply to all elected officials. This would include elected officials in all

branches of the Commonwealth Government -- Executive Branch, Legislative Branch, Judicial Branch (if any), and Washington Representative -- and all local government officials.

Subsection (a): This section requires that the petition identify precisely the elected official that is sought to be removed and that it be signed by forty percent of the qualified voters.

The provision requires that an official be identified by name and office so that there will be no confusion as to the person who is sought to be removed. The provision does not require that the petition state any reasons for removal. The Committee believes that removal by the voters should be as unlimited as is election by the voters. This is different from impeachment. In that case, only the Legislature acts to remove an official of the executive branch, and it is appropriate to require that specific charges of criminal conduct or improper conduct in office be made and proved before the official can be removed. The Committee recognizes that it may be desirable at some time in the future to require that referendum petitions state reasons for removal and therefore has given the power to the legislature to so provide.

The provision requires that referendum petitions be signed by forty percent of the qualified voters in the Commonwealth. The Committee considered a range of percentage

from fifteen percent to fifty percent. The Committee decided on a requirement of forty percent for three reasons: (1) recall is a very sensitive matter because it involves a challenge to a duly elected official and therefore the petition should require the signatures of a higher percentage of the qualified voters than for initiative or referendum which involve only legislation; (2) recall is a significant protection for the voters against improper or ineffective conduct in office and therefore it should not be made so difficult to get a recall proposal in the ballot that this protection is lost; and (3) the forty percent requirement applies only to putting proposals in the ballot -- no official can be removed unless a majority of the voters voting in the election agree that he should be removed.

The number of signatures necessary for a recall petition is a percentage of the total number of persons qualified to vote for the office from which the elected official is sought to be removed. Thus, if the office is one such as the governor for whom all voters in the Commonwealth are eligible to vote, then forty percent of all voters must sign the recall petition in order for it to be presented to the voters at an election. Similarly, if a local government official is sought to be removed, only forty percent of the total number of local voters who are eligible to vote for that local official would be required.

Subsections (b)(c) and (d): These are self-executing provisions and the Committee's reasons for recommending them are the same as stated above with respect to initiative and referendum.

Subsection (c): This subsection permits the Legislature to take certain actions with respect to recall that it cannot take with respect to initiative or referendum. The Committee's reasons for including this provision were to guard against possible abuses of the recall device and to permit some flexibility to change without the need of a constitutional amendment. The Legislature may provide limitations on the use of the recall. This means that the Legislature can provide, for example, that the recall cannot be used against a public official during his first six months in office, or that a recall can be used against a particular public official only once each year. This would prevent harassment by a minority group in subjecting the public official to continuous recall elections.

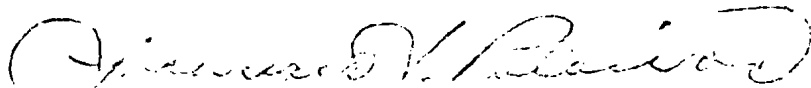
This provision also permits the Legislature to require that the grounds for the recall be stated in the petition. Many jurisdictions that use the recall have this requirement so that the public official can answer the charges that are made against him.

This provision also permits the Legislature to specify that recall petitions will be submitted to the voters at special elections. Because of the great damage that

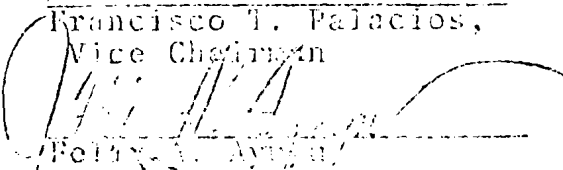
can be done to the public interest by a corrupt or otherwise incapable public official, the Committee felt that it might be better to permit a recall petition to be considered by the voters immediately, rather than waiting for the next general election. This provision gives the Legislature the flexibility to so provide.

Respectfully submitted,

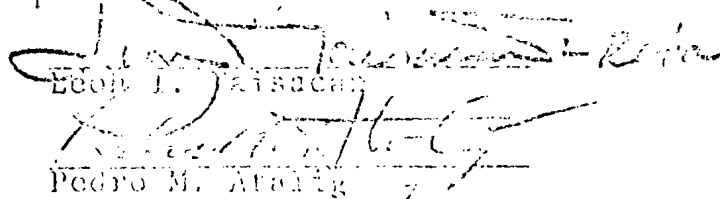
Felipe Q. Atalig, Chairman



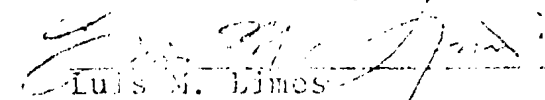
Francisco T. Palacios,
Vice Chairman



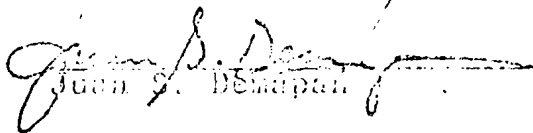
Leopoldo J. Pissacas



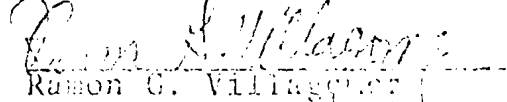
Pedro M. Atalig



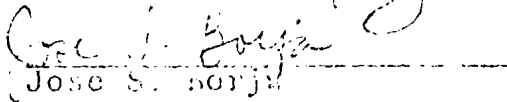
Luis M. Limes



Manuel A. Teñorio

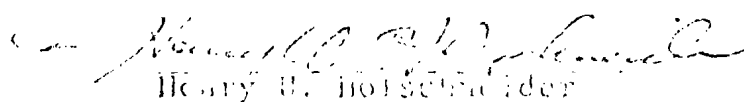


Ramon G. Villaguer

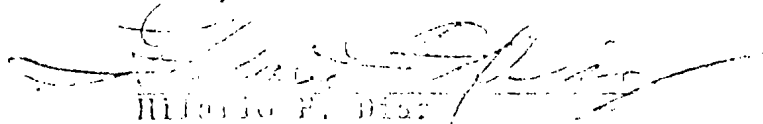


Jose S. Sorja

Daniel P. Castro



Henry B. Holsinger



Ricardo F. Diaz

ARTICLE _____

INITIATIVE, REFERENDUM AND RECALL.

Section 1: Initiative. The people may enact laws by initiative.

a) An initiative petition shall contain the full text of the proposed law, and shall be signed by a number of qualified voters equal to at least twenty percent of the total number of qualified voters within the Commonwealth.

b) Initiative petitions shall be filed with the Attorney General for certification that the requirements of Section 1(a) have been met.

c) Initiative petitions certified by the Attorney General shall be submitted to the voters at the next regular general election.

d) An initiative petition submitted to the voters shall become law if approved by a majority of the votes cast, and shall take effect 30 days after the date of the election unless the initiative petition itself otherwise provides.

Section 2: Referendum. The people may reject any act of the legislature by referendum.

a) A referendum petition shall contain the full text of the law that is sought to be rejected and shall be signed by a number of qualified voters equal to at least twenty percent of the total number of qualified

voters within the Commonwealth.

b) Referendum petitions shall be filed with the Attorney General for certification that the requirements of Section 2(a) have been met.

c) Referendum petitions certified by the Attorney General shall be submitted to the voters at the next regular general election.

d) A referendum petition submitted to the voters shall take effect if approved by a majority of the votes cast, and the law that is the subject of the petition shall become null, void and be repealed 30 days after the date of the election unless the referendum petition otherwise provides.

Section 3: Recall. All elected public officials in the Commonwealth are subject to recall by the voters of the Commonwealth or political sub-division from which elected.

a) Recall petitions shall identify the public official sought to be recalled by name and title or office and shall be signed by a number of qualified voters equal to at least forty percent of the total number of persons qualified to vote for the public office from which the public official is to be removed.

b) Recall petitions shall be filed with the Attorney General, or, if recall of the Attorney General

is sought, with the Governor, for certification that the requirements of Section 3(a) have been met.

c) Recall petitions that have been certified shall be submitted to the voters at the next regular election unless an earlier submission is provided by law.

d) A recall petition shall take effect 30 days after the date of the election if approved by the majority of the votes cast.

e) The Legislature may provide for limitations on the use of the recall, require that the grounds for recall be stated in the recall petition and specify that recall petitions be submitted at special elections.

REPORT TO THE COMMITTEE OF THE WHOLE
BY THE COMMITTEE ON PERSONAL RIGHTS
AND NATURAL RESOURCES

Subject: Reconsideration of Committee Recommendation No. 3:
Referendum and Recall

Pursuant to the action of the Committee of the Whole to refer back to the Committee on Personal Rights and Natural Resources Committee Recommendation No. 3 on Initiative, Referendum and Recall, the Committee has reconsidered these matters and has revised some of its proposed language on recall. The language on referendum remains unchanged. The Committee members are submitting two separate reports on initiative.

The Committee's reasons for its revisions are as follows:

Section 2(a) has not been changed.

Section 2(b) has not been changed.

Section 2(c) has not been changed.

Section 2(d) has not been changed.

Section 3(a) has been revised to require that grounds for a recall petition be stated in the petition. This change removes this matter from the discretion of the legislature and requires that each petition state the grounds on which recall is sought. In this way, each person who signs a petition will be informed of the reasons why recall is sought

and can make an informed decision whether to sign the petition. The revision does not place any limitations on the grounds for recall. The Committee believes that removal by the voters should be as unlimited as election by the voters.

Section 3(b) has not been changed.

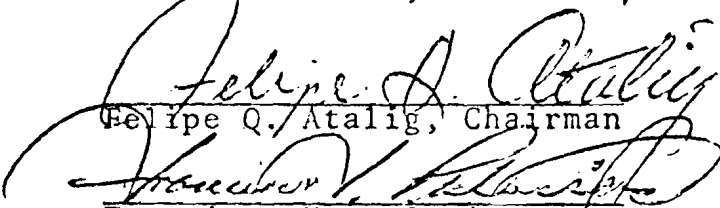
Section 3(c) has been changed to provide that the legislature may require recall petitions to be submitted at special elections instead of general elections. This is the same provision that was formerly in Section 3(e). The Committee believes that it is generally best to avoid special elections because of the cost involved. However, the Committee recognizes that great damage can be done to the public interest by a corrupt or otherwise incapable public official and it may be better to permit a recall petition to be considered by the voters immediately, rather than waiting for the next general election. The Committee's recommended provision gives the legislature flexibility in this regard. The legislature can weigh the cost of special elections, can consider the frequency with which recall is used, and can decide if special elections are worth the cost.


Section 3(d) has not been changed.

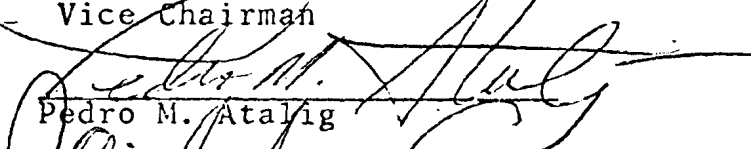
Section 3(e) has been changed to provide that a recall petition cannot be used against a public official during the first six months of his term in office. This prevents abuse of the recall process by using it immediately

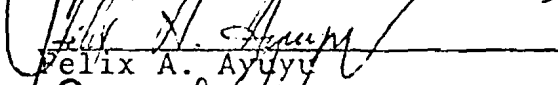
after the election in which the people have expressed their approval of the elected official. It permits the elected official to have some time in office to prove himself before he can be challenged. Section 3(e) has also been changed to provide that a recall petition cannot be used against a public official more than once a year. This prevents abuse in subjecting a public official to continuous recall elections. This section applies only to a single public official. It does not prevent more than one recall petition against different public officials to be used in any one year.

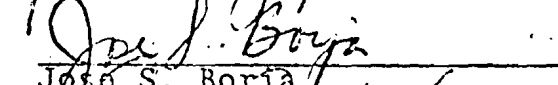
Respectfully submitted for
the Committee,

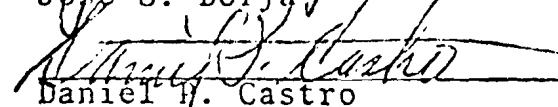

Felipe Q. Atalig, Chairman


Francisco T. Palacios,
Vice Chairman

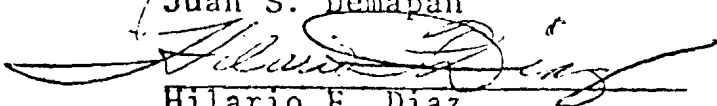

Pedro M. Atalig


Felix A. Ayuy

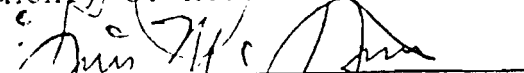

Jose S. Borja



Daniel H. Castro

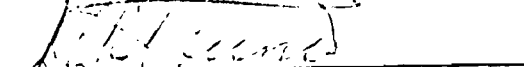

Juan S. Demapan



Hilario F. Diaz


Henry U. Hofschneider


Luis M. Limes


Leon I. Taisacan


Manual A. Tenorio


Ramon G. Villagomez

ARTICLE _____
INITIATIVE, REFERENDUM AND RECALL

Section 1: Initiative.

(See separate majority and minority reports.)

Section 2: Referendum. The people may reject any act of the legislature by referendum.

a) A referendum petition shall contain the full text of the law that is sought to be rejected and shall be signed by a number of qualified voters equal to at least twenty (20) percent of the total number of qualified voters within the Commonwealth.

b) Referendum petitions shall be filed with the Attorney General for certification that the requirements of Section 2(a) have been met.

c) Referendum petitions certified by the Attorney General shall be submitted to the voters at the next regular general election.

d) A referendum petition submitted to the voters shall take effect if approved by a majority of the votes cast and the law that is the subject of the petition shall become null, void and be repealed thirty (30) days after the date of the election unless the referendum petition otherwise provides.

Section 3: Recall. All elected public officials in the Commonwealth are subject to recall by the voters of

the Commonwealth or political sub-division from which elected.

a) Recall petitions shall identify the public official sought to be recalled by name and title or office, shall state the grounds for recall, and shall be signed by a number of qualified voters equal to at least forty percent of the total number of persons qualified to vote for the public office from which the public official is to be removed.

b) Recall petitions shall be filed with the Attorney General or, if recall of the Attorney General is sought, with the Governor for certification that the requirements of Section 3(a) have been met.

c) Recall petitions that have been certified shall be submitted to the voters at the next regular general election unless the legislature provides that recall petitions be submitted at special elections.

d) A recall petition shall take effect thirty (30) days after the date of the election if approved by a majority of the votes cast.

e) Recall petitions shall not be filed against any public official more than once in any year or during the first six months of a term in office.

October 28, 1976

REPORT TO THE COMMITTEE OF THE WHOLE BY THE
COMMITTEE ON PERSONAL RIGHTS AND NATURAL RESOURCES

Subject: Further Reconsideration of Committee Recommendation
No. 3: Initiative

Pursuant to the action of the Committee of the Whole to refer back to the Committee on Personal Rights and Natural Resources that portion of Committee Recommendation No. 3 dealing with initiative, the Committee has reconsidered this matter again and has revised its proposed language for Section 1(a). The Committee recommends that this language and the language in Sections 1(b)(c) and (d), that remain unchanged, be adopted in principle by the Committee of the Whole.

The Committee's reasons for its revision are as follows:

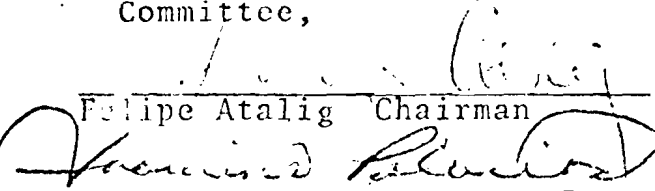
Section 1(a): The Committee recommends its original language providing that on matters affecting only one municipality, an initiative petition be signed by at least 20% of the voters in that municipality and on matters affecting the entire Commonwealth, an initiative petition be signed by at least 20% of the voters in the Commonwealth.

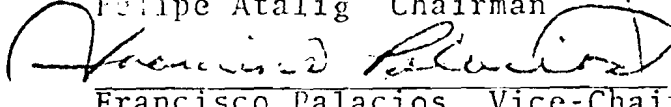
The Committee recommended this language in its first report to the Committee of the Whole. That provision was referred back to the Committee on Personal Rights and Natural Resources for reconsideration.

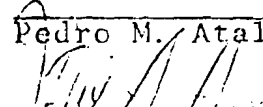
During debate on reconsideration, the delegates from Rota and Tinian urged that an initiative petition that proposed a general law to have effect Commonwealth-wide be signed by 20% of the voters in each of the three municipalities. A majority of the Committee members believed that this was not satisfactory because it would permit one municipality to prevent a proposal from being put on the ballot for the consideration of the voters. These Committee members proposed a compromise under which an initiative petition that proposed a general law to have effect Commonwealth-wide would be signed by 20% of the voters in each of two of the three municipalities. These Committee members believed this compromise to be appropriate because it put the initiative on the same footing as legislation originated in the legislature. In the legislature, if two of the three municipalities disagree with proposed legislation, it can be blocked in the upper house. Similarly, under the proposed compromise language, if the petition is not supported by at least 20% of the voters in two of the three municipalities, it cannot be put on the ballot. This compromise was rejected by the members of the Committee who are delegates from Rota and Tinian.

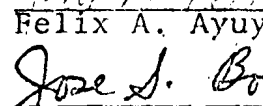
Therefore, the Committee has reinstated its original language and recommends that this provision be adopted in principle by the Committee of the Whole.


Respectfully submitted by the
Committee,

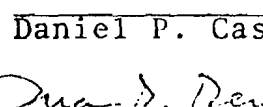

Felipe Atalig Chairman

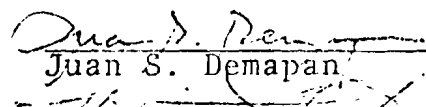

Francisco Palacios, Vice-Chairman

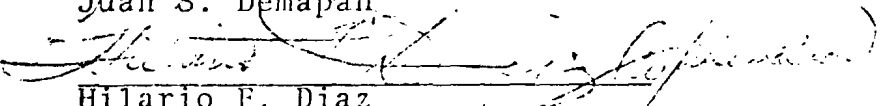

Pedro M. Atalig

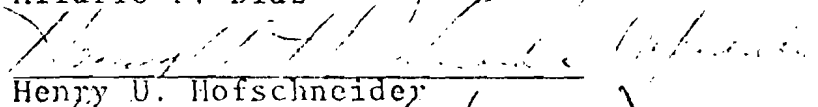

Felix A. Ayuyu

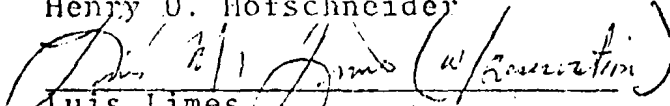

Jose S. Borja

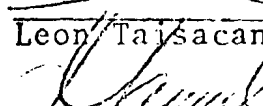

Daniel P. Castro

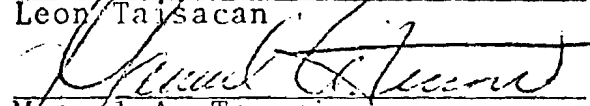

Juan S. Demapan

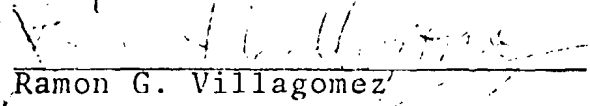

Hilario F. Diaz


Henry U. Hofschneider


Luis Limes


Leon Taisacan


Manuel A. Tenorio


Ramon G. Villagomez

ARTICLE

INITIATIVE, REFERENDUM AND RECALL

Section 1: Initiative. The people may enact laws by initiative.

a) An initiative petition shall contain the full text of the proposed law. If the petition proposes a local law that affects only one municipality the petition shall be signed by at least twenty (20) percent of the total number of voters qualified to vote in the municipality. If the petition proposes a general law for the Commonwealth the petition shall be signed by at least twenty (20) percent of the total number of qualified voters in the Commonwealth.

b) Initiative petitions shall be filed with the Attorney General for certification that the requirements of Section 1(a) have been met.

c) Initiative petitions certified by the Attorney General shall be submitted to the voters at the next regular general election.

d) An initiative petition submitted to the voters shall become law if approved by a majority of the votes cast and shall take effect thirty (30) days after the date of the election unless the initiative petition itself otherwise provides.

Section 2: Referendum.

(adopted in principle by the Committee of
the Whole)

Section 3: Recall.

(adopted in principle by the Committee of
the Whole)

AMENDMENT TO COMMITTEE RECOMMENDATION NO. 3 FROM THE COMMITTEE ON PERSONAL RIGHTS & NATURAL RESOURCES:

INITIATIVE

Section 1: Initiative. The people may enact laws by initiative.

a) An initiative petition shall contain the full text of the proposed law and shall be signed by at least twenty (20) percent of the total number of voters qualified to vote on the proposed law and if the petition proposes a general law that affects each chartered municipality the petition shall be signed by at least twenty (20) percent of the qualified voters in each of two of the chartered municipalities.

b) Initiative petitions shall be filed with the Attorney General for certification that the requirements of Section 1(3) have been met.

c) Initiative petitions certified by the Attorney General shall be submitted to the voters at the next regular general election.

d) An initiative petition submitted to the voters shall become law if approved by a two-thirds (2/3) majority of the registered voters, and shall take effect thirty (30) days after the date of the election unless the initiative petition itself otherwise provides.

A handwritten signature in cursive script, likely belonging to a legislator or official, is located in the lower right quadrant of the page.

October 29, 1976

REPORT TO THE CONVENTION
OF THE COMMITTEE ON PERSONAL RIGHTS
AND NATURAL RESOURCES

Subject: Committee Recommendation No. 4:
Personal Rights

The Committee recommends that the Committee of the Whole adopt in principle the constitutional provision attached hereto with respect to personal rights.

The Committee has considered a wide range of proposals with respect to personal rights and recommends that there be a single constitutional article dealing with all personal rights. The draft provision attached to this report contains 12 sections each of which deals with a separate personal right or group of related rights.

The Committee's recommendations are organized in three general sections. The Committee considered first those personal rights that are guaranteed by the United States Constitution and that are made applicable within the Northern Mariana Islands by the Covenant. Those rights are set out in Sections 1 through 6. The Committee then considered those personal rights that are guaranteed within the United States by the United States Constitution but are not extended automatically to the Northern Mariana Islands

by the Covenant. Those rights to be included in the Commonwealth Constitution are set out in Sections 7 through 9. Finally, the Committee considered personal rights that are guaranteed by some state constitutions and that have been recommended by various experts, but that are not included in the United States Constitution and therefore are not extended to the Northern Mariana Islands by the Covenant. Those rights to be incorporated in the Commonwealth Constitution are set out in Sections 10 through 12. The reasons for the Committee's recommendation with respect to each proposed constitutional provision falling within these three categories are set out below.

Rights Guaranteed by the United States
Constitution and Applicable Automatically
in the Northern Mariana Islands

In general, the Committee decided to incorporate into the Commonwealth Constitution rights that are guaranteed by the United States Constitution. The Committee believed, that it would be useful to collect in one place in the Constitution all of the important personal rights. This would permit citizens of the Commonwealth to look to their own Constitution for a complete statement of their personal rights and would not require them to go back through the Covenant and consult the relevant parts of the United States Constitution.

Section 1: Laws Prohibited. This section is drawn from Article I, Section 10 of the United States Constitution.

It prohibits three kinds of laws: (1) bills of attainder, which are laws that declare a person guilty of a crime and impose punishment without a trial before a court; (2) ex post facto laws, which are laws that define new criminal offenses and apply them retroactively to a period of time before the law was enacted; and (3) laws impairing the obligations of contract.

The Committee decided not to incorporate the privileges and immunities clause of Article IV, Section 2 of the United States Constitution because it is of limited benefit to citizens of the Northern Mariana Islands. Its benefits apply primarily to United States citizens who travel to the Commonwealth. The privileges and immunities clause of the United States Constitution is made applicable automatically by the Covenant and will be in force in the Commonwealth even though it is not included in the Commonwealth Constitution.

Section 2: Freedom of Religion, Speech, Press and Assembly. The Committee recommends that the general language of the First Amendment of the United States Constitution be incorporated in the Commonwealth Constitution. The Committee has not provided for any extension of that language.

The provision with respect to freedom of religion requires that the Commonwealth government refrain from aiding religion. As under the United States Constitution,

some aid to religious institutions, such as schools, is permitted if that aid is for a non-religious purpose, such as education in science or other non-religious subjects.

The provision with respect to freedom of speech prevents interference with the free expression of ideas except where important interests in social order are involved. Because the Committee has not extended the First Amendment language, this constitutional provision does not protect obscenity or certain forms of conduct such as flag-burning that have been classified as "non-verbal" speech.

The provision with respect to freedom of the press prevents any government censorship of the press by the executive, legislative or judicial branches of the government. Because the Committee has not extended the rights guaranteed by the United States Constitution, this provision does not give newsmen the right to refuse to reveal their sources and may, in some instances, permit a court to order newsmen not to publish certain information about criminal defendants or trials.

The provision with respect to freedom of assembly prevents any government interference with political rallies, religious gatherings or other meetings. This provision also gives the people the right to petition the government for the redress of their grievances.

Section 3: Search and Seizure. This section provides a guarantee with respect to the security of the people in their persons, homes, papers and other effects.

Section 3(a) provides that a search or seizure can be conducted only pursuant to a warrant, and that the warrant must be issued by a court after a showing of probable cause. This is an extension of the Fourth Amendment. Under the United States Constitution some searches may be conducted without a warrant and with less than a showing of probable cause. The Committee believes that an extension of the Fourth Amendment protection is appropriate for the Commonwealth in order to establish a uniform rule governing all searches and seizures.

Section 3(b) deals specifically with searches and seizures through wiretapping. It provides the same protections against these actions of the government by requiring a warrant in every case. The Committee believes that wiretapping should not be prohibited in the Commonwealth because there are some types of crimes, such as drug trafficking, that are very difficult to prosecute without such evidence. The Committee has included this provision so that the policy with respect to wiretapping in the Commonwealth will be absolutely clear.

Section 3(c) is an extension of the Fourth Amendment. It provides that the victims of illegal searches or seizures will have a cause of action against the Commonwealth government. Under the Fourth Amendment, the only sanction for an illegal search or seizure is the application of the exclusionary rule that prevents the evidence obtained by these methods from being used in the criminal trial. The Committee believes that a more sensible policy is to compensate those who are adversely affected and to leave the courts free to decide whether the evidence gathered by these methods should be used in the trial based on considerations of the probative nature of the evidence itself. The Committee recognizes that there may be a need for limitations on the amount of money damages for which the Commonwealth will be liable in such cases and has permitted the legislature to set such limits.

Section 4: Criminal Prosecutions. This section contains nine separate fundamental rights pertaining to prosecution of criminal cases.

Section 4(a) provides that the criminal defendant shall have the right to be represented by a lawyer in all cases and in all appeals. This is an extension of the

right provided by the Sixth Amendment of the United States Constitution, which guarantees counsel only in cases in which the defendant may be sentenced to prison and only through the first appeal. Under the Committee's recommended provision, a defendant can waive his right to counsel. If a defendant elects to be represented by counsel and is too poor to pay legal fees, the Commonwealth will have the responsibility of providing counsel. The Committee recognizes that extending the right to counsel also extends the burden on the Commonwealth, both in financial resources and in the minimum time necessary for the trial of cases. However, the Committee believes that this right is important in securing a fair trial and an effective judicial system.

Section 4(b) is taken directly from the Sixth Amendment to the United States Constitution and has not been extended. It provides that the accused has the right to be confronted with the witnesses against him so that he can meet that evidence and present his own defense effectively. It also provides that the accused has the right of compulsory process to obtain witnesses in his favor. This means that the court will issue subpoenas to persons who have relevant information but who are unwilling to testify voluntarily. In this manner, the defendant can have the benefit of all available evidence at his trial.

Section 4(c) is taken directly from the Fifth Amendment to the United States Constitution and has not been extended. It provides that no person can be compelled to testify against himself. This means that no witness in a trial or other administrative proceeding can be compelled to testify against himself. It also means that no defendant can be compelled to testify at all at his own trial. A defendant in a criminal case is entitled to have the Commonwealth prove the offense without any testimony from him. The defendant can, of course, elect to testify in his own behalf.

Section 4(d) is taken directly from the Fifth Amendment to the United States Constitution and has not been extended. It requires a speedy and public trial. The Committee considered an extension of this right that would require a trial in the municipality from which the defendant came. The Committee rejected this proposal because it believed that trial at the place where the crime was committed was more appropriate.

Section 4(e) is taken from the Fifth Amendment to the United States Constitution and has been extended by the Committee to cover double jeopardy between the federal and Commonwealth jurisdictions. Under the Fifth Amendment, a defendant cannot be prosecuted twice by the same jurisdiction -- that is he cannot be prosecuted twice by the Commonwealth or twice by the federal government. However,

it is possible for a defendant to be prosecuted twice -- once by the federal government and once by the state government -- for the same offense, if that offense happens to be a violation of both federal and state statutes. Under the Committee's recommended provision, there would be only one opportunity to prosecute a defendant. The Commonwealth and federal prosecutors would be required to confer and decide which should undertake the prosecution. Once one jurisdiction had prosecuted a defendant, the other jurisdiction would be barred. The Committee points out that this would affect only a small number of cases and would not affect cases where the crime resulted in more than one type of charge being brought against the defendant. The federal prosecutor could prosecute bank robbery charges, for example, and if the defendant were acquitted, the Commonwealth prosecutor could then prosecute for a subsidiary offense arising out of the same crime such as illegal possession of a gun.

Section 4(f) is taken directly from the Eighth Amendment to the United States Constitution and has not been extended. This provision prohibits excessive bail. It does not require that defendants be able to put up bail and be released from prison in all cases. The legislature might decide that certain crimes, for example murder or drug trafficking, are so serious that no person accused of those crimes and against whom a sufficient

amount of evidence exists should be permitted to leave jail pending trial. In those cases the severity of punishment increases the likelihood that the accused will not return to stand trial once freed. The Committee recommends a prohibition on excessive bail so that if the legislature provides for bail in certain types of cases a judge cannot set bail higher than poor persons can afford just to keep them in jail. The draft provision requires only that for cases where the legislature permits bail, the bail not be excessive.

Section 4(g) is also taken directly from the Eighth Amendment to the United States Constitution and has not been extended. It provides that excessive fines shall not be imposed. This provision does not require or prohibit the imposition of fines for offenses for which the legislature finds them to be appropriate. The provision only requires that when fines are available as a punishment and they are imposed, that they not be excessive in relation to the crime.

Section 4(h) has also been taken directly from the Eighth Amendment to the United States Constitution and has not been extended. It prohibits cruel and unusual punishments. This means that the legislature may not devise or use punishments such as starvation, torture, non-voluntary medical experimentation or things other than prison terms, probation and other forms of partial release.

Section 4(i) is a specific extension of the Eighth Amendment to cover capital punishment. The Committee believes that capital punishment should be abolished because mistakes are sometimes made in prosecuting criminals and if an innocent person were put to death by the Commonwealth, an irremediable injustice would have been done. The Committee considered the burden on the Commonwealth of keeping prisoners in custody for long sentences as would be required without the death penalty. The Commonwealth decided that this burden was reasonable because the Committee believes that no risk should be taken with a human life. The Committee also considered the use of capital punishment as a deterrent and decided that this was probably outweighed by the possibility of rehabilitation in some cases, therefore capital punishment should not be used.

Section 5: Due Process. This provision is taken directly from Section 1 of the Fourteenth Amendment to the United States Constitution and has not been extended. This provision requires the Commonwealth government to observe strict standards of fairness in dealing with the people. The protections of this section do not extend to interference with civil rights by a private individual. The legislature, however, has the option to extend such protection by statute.

Section 6: Equal Protection. This provision was taken from Section 1 of the Fourteenth Amendment to the United

States Constitution and has been extended significantly. The first sentence of the Committee's recommended provision is the standard equal protection clause. Similar clauses are found in every state constitution. This provision guarantees that the government will treat all persons similarly situated in the same manner. It forbids classifications that are irrational. The second sentence of this provision requires special protection against certain kinds of classifications: race, color, religion, ancestry or sex. This is an extension of the Fourteenth Amendment protection which applies strict scrutiny only to race and ethnic classifications. The Committee's recommended provision forbids classifications based on these two factors and adds religion, ancestry and sex. The Committee believes that these are important protections and should be made explicit in the Commonwealth Constitution. The Committee decided not to extend the language of this section to include discrimination based on alienage.

Rights Guaranteed by the United States
Constitution within the United States But
Not Applicable Automatically in the Commonwealth

The Committee considered five fundamental rights guaranteed by the United States Constitution but not made applicable automatically by the Covenant in the Northern Mariana Islands. These are the right to bear arms, the right not to be required to house soldiers, the right to a grand jury indictment in certain criminal cases, the right to

trial by jury in criminal cases, and the right to trial by jury in civil cases. The Committee's recommended provision includes a form of each of these rights except the right to indictment by grand jury. The Committee decided that the grand jury procedure was costly, time-consuming and not required in a relatively small community such as the Commonwealth.

Section 7: Availability of a Militia

This section incorporates the language of the Second Amendment to the United States Constitution. It permits the Commonwealth to form a militia if that is necessary and guarantees the right to bear arms in order to have armed and trained citizens available to serve in the militia. The Committee believes that a militia might be necessary to help keep order during times of disaster or other emergency. This Amendment guarantees the right of the Commonwealth to organize such a militia -- on land, at sea or in the air -- but does not require the legislature to do so. The Committee believes that the protection available from the United States military forces will suffice in most instances. The Committee's proposed constitutional provision does not guarantee the right of an individual to possess any particular gun. Under this proposed provision, the legislature could enact a gun control law if that were to become necessary.

Section 8: Quartering Soldiers. This section is taken from the Third Amendment to the United States Constitution and has not been extended. It prohibits the quartering of soldiers in civilian homes during peacetime, and permits such action during wartime only as provided by the legislature. The Committee discussed including refugees in this provision, but decided that such a contingency could be left to the legislature.

Section 9: Right to Trial by Jury. This section authorizes the legislature to specify the particular kinds of criminal and civil cases in which the parties involved will have the right to request a jury trial. The Committee did not want to guarantee the right to trial by jury in all cases in the Northern Mariana Islands because of the expenses associated with juries, the difficulty of finding jurors unacquainted with the facts of a case, and the fear that the small closely-knit population in the Northern Mariana Islands might lead to acquittals of guilty persons in criminal cases. Nonetheless, the Committee believes that in some cases, especially those where defendants face serious criminal charges and long terms of imprisonment, the right to trial by jury should be guaranteed. Therefore, this section gives the legislature the authority to designate the categories of cases in which a jury trial may be requested. Within these categories of cases, any defendant

may elect to have a jury trial. The choice rests solely with the defendant. At the present time, all criminal defendants in the Northern Mariana Islands have the right to trial by jury, yet there have been very few such trials. The Committee expects that this practice will continue, particularly in light of evidence that judges and juries generally reach the same verdicts.

Rights Not Guaranteed by the United
States Constitution Within the
United States

Each of the rights in this section is in addition to the protection offered by the United States Constitution. The Committee provided for these additional protections because it believed that they met significant needs within the Commonwealth. The Committee also considered constitutional protection for access to governmental hearings and documents, collective bargaining and humane treatment of prisoners. The Committee decided that these matters are more appropriately left to the legislature.

Section 10: Free Public Education. This section guarantees the right of each person to attend a free public school. This does not mean that each public school must accept all students that apply. Each school may restrict enrollment to students within a certain age range or of certain abilities, but if persons are not allowed to attend certain schools, there must be other free public schools that

are open to them. Similarly, if existing schools cannot house all of the potential students in the Commonwealth, new schools must be built. This section does not prohibit schools from adopting disciplinary and administrative rules or from refusing to accept students who are serving criminal sentences.

Section 11: Clean and Healthful Environment: This provision protects the environment in the Commonwealth. The Committee does not believe that there are significant environmental problems at the present time. However, it believes that this is an appropriate constitutional provision in order to provide protection for the future.

Section 12: Privacy. This provision protects the right of each person to privacy. This means that a person should not be subjected to unwanted publicity or intrusion into his affairs unless there is a compelling government interest that overcomes the individual's interest.

Delegate Proposals. The Committee considered Delegate proposals numbered 25, 31 and 67 that pertain to the article on personal rights.

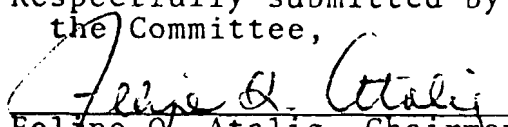
With respect to proposal number 25, Sections 1, 2, 3, and 5 are consistent with the Committee's proposed Constitutional provision. Section 7 of the proposal is covered in more limited form by Section 10 of the Committee's proposed provision. Consideration of Sections 6 and 9 was deferred.

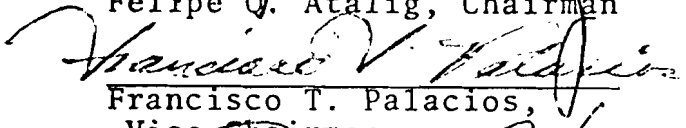
With respect to proposal number 31, this matter is covered in more limited form by Section 9 of the Committee's proposed provision.

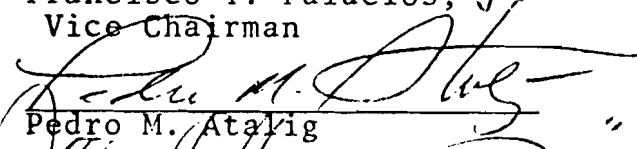
With respect to proposal number 67, Section 1 is covered by Section 4(a) and (d) of the Committee's proposed provision. Consideration of Section 2 has been deferred.

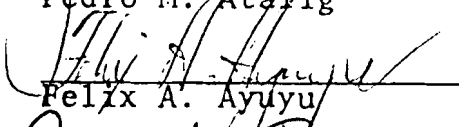
The Committee has deferred consideration of constitutional provisions with respect to the rights of juveniles and will consider that matter when it considers other delegate proposals dealing with personal rights.

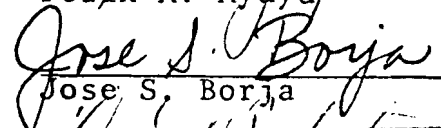
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the Committee,

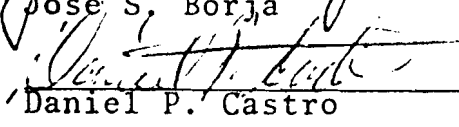

Felipe Q. Atalig, Chairman

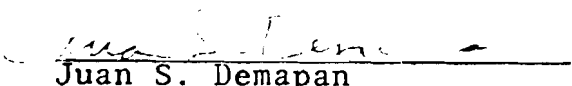

Francisco T. Palacios,
Vice Chairman


Pedro M. Atalig

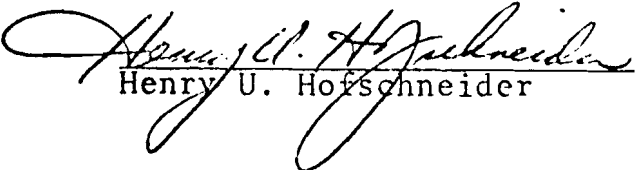

Felix A. Ayuyu



Jose S. Borja

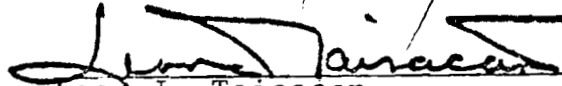

Daniel P. Castro


Juan S. Demapan

Hilario F. Diaz


Henry U. Hofschneider


Luis M. Limes

 - Rota
Leon I. Taisacan

Manuel A. Tenorio

Ramon G. Villagomez

ARTICLE ___
PERSONAL RIGHTS

Section 1: Laws Prohibited. No law shall be made that is a bill of attainder, an ex post facto law, or a law impairing the obligation of contracts.

Section 2: Freedom of Religion, Speech, Press and Assembly. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Section 3: Search and Seizure. The people shall have the right to be secure in their persons, houses, papers and belongings.

a) No search or seizure shall be conducted without a warrant issued by a court and no warrant shall issue but upon probable cause supported by oath or affirmation and describing particularly the place to be searched " and the persons or things to be seized.

b) No wiretapping or other comparable means of surveillance shall be used except pursuant to a warrant.

c) Any person adversely affected by an illegal search or seizure shall have a cause of action against the government within limits provided by law.

Section 4: Criminal Prosecutions. In all criminal prosecutions certain fundamental rights shall pertain.

a) The accused shall have the right to assistance of counsel in all cases, including all appeals.

b) The accused shall have the right to be confronted with the witnesses against him and to have compulsory process for obtaining witnesses in his favor.

c) No person shall be compelled to be a witness against himself.

d) There shall be a speedy and public trial.

e) No person shall be put twice in jeopardy for the same offense regardless of the governmental entity that first institutes prosecution.

f) Excessive bail shall not be required.

g) Excessive fines shall not be imposed.

h) Cruel and unusual punishment shall not be inflicted.

i) Capital punishment is prohibited.

Section 5: Due Process. No person shall be deprived of life, liberty or property without due process of law.

Section 6: Equal Protection. No person shall be denied the equal protection of the laws. No person shall be denied the enjoyment of civil rights or be discriminated against in the exercise thereof on account of race, color, religion, ancestry or sex.

Section 7: Availability of a Militia. In order that a militia may be available if necessary in times of emergency, the right of the people to keep and bear arms shall not be infringed.

Section 8: Quartering Soldiers. No soldier in time of peace may be quartered in any house without the consent of the owner, nor in time of war except in a manner prescribed by law.

Section 9: Trial by Jury. The legislature may provide for trial by jury in serious criminal and civil cases as defined by law.

Section 10: Free Public Education. Each person shall have the right to a free public education.

Section 11: Clean and Healthful Environment. Each person shall have the right to a clean and healthful environment.

Section 12: Privacy. The right of individual privacy shall not be infringed except upon a showing of compelling government interest.

November 4, 1970

REPORT TO THE CONVENTION
BY THE COMMITTEE ON
PERSONAL RIGHTS AND NATURAL RESOURCES

Subject: Committee Recommendation No. 5:
Public Lands

The Committee on Personal Rights and Natural Resources recommends that the Convention adopt in principle the attached constitutional article with respect to public lands.

The Committee's proposed constitutional article contains six sections. The first section defines the public lands as including both surface lands and submerged lands in which the Commonwealth has any right, title or interest. The second section delegates to the legislature the responsibility for submerged public lands. The third section delegates to the Marianas Public Land Corporation the responsibility for surface public lands. The fourth section sets out the basic organization of the Corporation. The fifth section sets out the fundamental policies under which the Corporation must operate. The sixth section provides for a Marianas Public Land Trust to hold and invest the funds derived from the public lands.

In order to gather information with respect to the present system of land management, the Committee invited five witnesses to appear before it and present their views:

Elmer L. Gay, Supervisor for Cadastral Surveying, Office of Land Management; Robert W. Green, Senior Land Commissioner