

## PROCLAIMATION

TO: Immigration and Naturalization Officer

DATE: 3/6/85  
(Revised)

FROM: Attorney General

SUBJECT: CNMI Permanent Residence  
AG Opinion 85-022

You have asked the Office of the Attorney General for its legal opinion as to the immigration status of CNMI "permanent residents". This opinion, in tracing the origin and development of the concept of permanent residence, will discuss both green card and white card holders in order to resolve the popular confusion we perceive. Furthermore, because there has been too infrequent speculation about future immigration events, this opinion endeavors to provide a forecast to assist future immigration planning. Unfortunately, past administration of the laws in this area, has hopelessly complicated any legal analysis. Many issues are raised that are beyond the scope of this opinion. Perhaps many of the issues, even those which we seek to answer, will only be resolved in court.

### Covenant §506(c)

The concept of permanent residence does not originate in the Commonwealth. The immigration laws of the United States provide entry for "aliens lawfully admitted to the United States for permanent residence". 8 U.S.C. §1151(a). These persons enter under immigrant visas. Quarterly limits are set on the number of visas (known popularly as "green cards") and a preference system is established to determine who will receive the visas. However, if one is the "immediate relative" of a United States citizen then admission is "without regard to the numerical limitation". Because one does not enter under the preference system, entry is accomplished quicker.

United States lawful permanent residence not only provides for entry into the United States, but it is an important step towards becoming a United States citizen. An alien can be naturalized after residing continuously in the United States as a permanent resident for five years. 8 U.S.C. §1427(a). If one's spouse is a citizen, then the period is only three years. 8 U.S.C. §1430(a).<sup>1/</sup>

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<sup>1/</sup> The other requirements are:

1. good moral character,
2. attachment to the principles of the Constitution,
3. an ability to read, write, and speak English, and
4. a knowledge of the fundamentals of the history, principles, and form of government of the United States.

Permanent residence was first introduced into the Commonwealth by the Covenant. The general rule, under Section 503(a) is that after the termination of the Trusteeship Agreement the immigration and naturalization laws of the United States will not apply to the Northern Mariana Islands, unless Congress makes them applicable. The rule provides an exception for Section 506. Covenant Section 506(c) provides:

With respect to aliens who are "immediate relatives" (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply

The Act referred to is the Immigration and Nationality Act, as amended. The provisions of the Act that apply to "immediate relatives" are those that provide for lawful permanent residence status and naturalization. Subsection 201(b) is presently 8 U.S.C.A. §1151(b):

The "immediate relatives" referred to in subsection (a) of this section shall mean the children, spouses, and parents of a citizen of the United States: Provided, that in the case of parents, such citizens must be at least twenty-one years of age.

8 U.S.C. §1151(a) provides for the admission of immediate relatives as permanent residents without numerical limitations.

The effect of Section 506(c) of the Covenant is to provide for United States permanent residence status for aliens who are permanently residing in the Northern Mariana Islands and are immediate relatives of United States citizens. Since this provision will not take effect until the termination of the trusteeship, the United States citizens envisioned will most likely be new United States citizens under Section 301 of the Covenant. There appear to be two groups that will benefit from Section 506(c):

1. relatives who may wish to become U.S. citizens by moving to the CNMI, and
2. relatives in the CNMI who moved there too late to meet the domicile requirements of Section 301 to automatically become citizens.

The Analysis<sup>2/</sup> points out, as to the first group, that people of the Northern Mariana Islands ". . . would not want their immediate relatives to be deterred from moving to the Northern Marianas because they

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<sup>2/</sup>Section-by-Section Analysis of the Covenant to Establish a Commonwealth of the Northern Mariana Islands (Marianas Political Status Commission, 1975), hereinafter referred to as "Analysis".

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will not become United States citizens there". (p. 64) As to the second group, the Analysis notes that aliens who moved to the CNMI after January 1, 1974 will not become citizens under Section 301(c), but will become citizens under Section 506(c).

Section 506(c) has the potential of significant impact on immigration into the Northern Mariana Islands after termination of the trusteeship. All the provisions of federal immigration law will apply in the CNMI to any person who claims to be entitled to "immediate relative" status.

In other words, the CNMI will not have exclusive control over its borders. With respect to an immediate relative, the alien:

. . . would claim immediate relative status under federal law and follow the procedures established by federal law to enter the Northern Marianas . . . (Emphasis added.) Analysis, p. 64.

(Of course, the U.S. will indirectly control immigration into the CNMI by virtue of its authority to grant U.S. passports.)

It appears that an alien could claim immediate relative status with the United States government in Manila and receive a United States green card allowing entry into the Northern Mariana Islands or the United States. An estimate of the number of persons involved is theoretically possible to reach. The group would encompass the spouse, children and parents of every holder of a certificate of identity issued under Section 3(c) of Public Law No. 1-6.<sup>3/</sup>

Section 506(c) is specific on how aliens present in the CNMI upon termination of the trusteeship will become U.S. permanent residents:

A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the "immediate relative" relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirement of any of the usual procedures set forth in the said Act.

The CNMI government must certify an alien's status as a lawful permanent resident and as an immediate relative as of the effective date of the section. Section 506(c) takes effect upon the termination of the trusteeship. Covenant §1003(c). Upon certification, a presumption

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<sup>3/</sup> Thus, class action suits such as Pangelinan v. Castro, 688 F.2d 610 (9th Cir. 1982), mandating issuance of certificates of identity to aliens represent an influx of a far greater number of people, their immediate relatives, upon termination of the trusteeship.

...cases that as of the termination date one had been admitted to the United States for lawful permanent residence. One would be entitled to a U.S. green card and be entitled to enter the United States.<sup>4/</sup> And, the time period towards naturalization would begin to run.

In summary, although other federal immigration laws will not apply to the CNMI, the lawful permanent resident program will apply to the immediate relatives of U.S. citizens in the CNMI. There are two requirements for aliens to receive this status at the termination of the trusteeship. First, the person must be an immediate relative of a U.S. citizen. This will not be hard to determine. Immediate relative is defined at 8 U.S.C. §1151(b). Second, the person must be a "lawful permanent resident" of the Northern Mariana Islands. Nowhere is this term defined. At that time there was no lawful permanent resident law in the Northern Mariana Islands. The Analysis sheds no light on what the term means. It is against this background that we see laws and regulations enacted defining, for the CNMI, a lawful permanent resident.

#### Public Law No. 5-11

After the Covenant was approved by Congress and the CNMI Constitution was drafted, the Fifth Northern Mariana Islands Legislature enacted P.L. No. 5-11 (April 1, 1977) establishing a permanent resident status for the Northern Mariana Islands. The immediate value of such a status was authority to enter into and remain in the Northern Mariana Islands identical to that of TTPI citizens (eg. entry permits would be unnecessary).<sup>5/</sup> We believe this grant of authority contains an inherent limitation. At the termination of the trusteeship, there will be no more TTPI citizens as there will be no more TTPI. Therefore, their authority to enter and remain will no longer exist. We believe that a P.L. No. 5-11 permanent resident will similarly lose his authority at the same time. No reasonable expectations could have developed to the contrary in any person who has read the Act.<sup>6/</sup>

The status is one granted by the Resident Commissioner to persons who:

1. are not TTPI citizens;
2. possess good character; and,

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<sup>4/</sup> There will probably be an immigration control point between the CNMI and the U.S. since the CNMI will control its own borders under Section 502(a).

<sup>5/</sup> Secretarial Order No. 2928, Part XI provides that TTPI citizens shall be allowed unrestricted travel through the Trust Territory including the Northern Mariana Islands.

<sup>6/</sup> However, P.L. No. 3-105 confuses this analysis. This is explained later.

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5. have been actual residents of the Northern Mariana Islands for at least five years immediately prior to application.

Thus, "lawful permanent residence" came to mean five years residence under CNMI law. That was the only future significance of the law. Its limitations are obvious. First, the status probably means little if one is not an actual resident as of the date the trusteeship terminates. Second, the status satisfies only one of two requirements for a U.S. green card. Still one must prove one is an immediate relative of a United States citizen as of the date of the termination. So, to be a CNMI lawful permanent resident does not make one a U.S. lawful permanent resident if one is not an immediate relative of a U.S. citizen. Immediate relative status must be established on the date of the government certification. So, if one is divorced as of that date from a U.S. citizen, U.S. lawful permanent residence status will not be granted.

The status of 5-11 permanent residents was considerably enhanced by P.L. No. 3-105, the "Commonwealth Entry and Deportation Act of 1983". This comprehensive immigration law excluded permanent residents from the definition of alien.

"Alien" means any person . . . who is not a permanent resident. P.L. No. 3-105, Section 3(a).

"Permanent Resident" means a person granted permanent resident status in the Commonwealth of the Northern Mariana Islands by operation of statute. ibid. Section 3(t).

P.L. No. 5-11 permanent residents have become nonaliens. As a result, they do not need entry permits to enter the CNMI. P.L. No. 3-105, Section 3(k). So, when they lose their T.T. citizen-like privilege of entry at termination of the trusteeship, they will still be entitled to enter the CNMI without an entry permit.

The benefits of not being an alien are significant. Only aliens must register annually. P.L. No. 3-105, Section 24(a). Only aliens may be deported. Section 17. Permanent residents are subject to far fewer causes for exclusion when entering at the border. Section 11(a). This was not the status of permanent residence under P.L. No. 5-11.<sup>7/</sup> That act provided:

Nothing in this Act, however, shall exempt any person not a citizen of the Trust Territory from the provisions of the Protection of Resident Workers Act, the Foreign Investment

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<sup>7/</sup> It is unlikely that 5-11 permanent residents<sup>p</sup> could have been deported prior to P.L. No. 3-105 since they were entitled to the same authority to "remain" in the NMI as TTPI citizens. TTPI citizens could not be deported.

Business Permit Act, restrictions upon ownership of land, or any other provision of law otherwise applicable . . . Section

Unlike CNMI law, the United States law includes permanent residents as aliens. An alien is defined as "any person not a citizen or national of the United States". 8 U.S.C. §1101(a)(3).

In the final analysis, P.L. No. 5-11 provided the CNMI with a definition of permanent resident that could have been relied upon had the trusteeship terminated. Until that time, it extended entry benefits to this group of persons similar to those received by United States lawful permanent residents. However, these benefits would probably cease at the end of the trusteeship. Undoubtedly, P.L. No. 3-105 has expanded the benefits beyond those received by United States lawful permanent residents. A class of immigrant nonaliens has been created from a group of nonimmigrant aliens. It can even be argued that their status, being elevated from entry rights similar to a TTP1 citizen to nonalien status, does not disappear at the termination of the trusteeship. Many of these 5-11 permanent residents will not become United States lawful permanent residents because they lack immediate relative status. The question is what happens to them. If the Legislature cannot or does not redefine "alien" then these persons will be entitled to enter and exit the CNMI at will even though they have foreign passports, owe allegiance to foreign status, and are not related to anyone in the Commonwealth! These people may remain in limbo as CNMI permanent residents with foreign citizenship. The NMI status does not lead to eventual citizenship as in the U.S. as there are no NMI naturalization laws. This is an issue best left to resolution in the future.

#### Administrative Response to P.L. No. 5-11

The administration of P.L. No. 5-11 has made matters more complex. The first problem is with persons who presumably received a legitimate green card. The grant of the status may have been proper, but the green card itself raises several questions. (Exhibit #1)

The green card recites that it is "granted pursuant to Chapter 1 Subsection 2 of Title 53 TTC". This is absolutely wrong. 53 TTC §2 grants Trust Territory citizenship through naturalization by the High Commissioner. Permanent residence is granted only to persons who are not TTP1 citizens. It is granted by the Resident Commissioner. And, it is clearly done under the authority of P.L. No. 5-11.

The green card also states that the holder "had the Immediate Relative status denoted in Subsection 210(b) of the Immigration and Nationality Act". Again, this is erroneous. P.L. No. 5-11 calls for 5 years of residence, but makes no determination as to whether one is an "immediate relative". There are several holders who are not immediate relatives. This recital is so clearly in error and unlikely to result in any justifiable detrimental reliance, that the CNMI would be well

advised to treat green cards as evidence only of permanent residence at the termination of the trusteeship. A separate finding should be made as to one's immediate relative status.

Finally, the card says "the rightful holder of this Identification Card do (sic) not have to comply with Title 49 T.C. Protection of Resident Workers Act". As indicated earlier, Section 3 of P.L. No. 5-11 states that a permanent resident is not exempt from this Act.<sup>8/</sup>

Another odd response from Immigration was to adopt a "Resident Entry Permit" by regulation on February 23, 1981. Section 11.8(b) of the new Immigration regulations provided that one must establish eligibility "as provided in Article V Section 506(c) of the Covenant". Of course, Section 506(c) says one must be an immediate relative and a permanent resident of the CNM: (whatever that is). So, these regulations give one a resident entry permit if one is a permanent resident. Since permanent resident is never defined, one is left chasing his own tail. To make matters more complex, the authority for the regulation is "Title 53 Trust Territory Code, the Covenant, and Public Law 5-11". How could the authority for an entry permit for residents come from legislation establishing a permanent residence status that does not require an entry permit? Perhaps the regulation was passed in anticipation of the repeal of P.L. No. 5-11<sup>9/</sup> as a replacement. If so, then the source of its authority would have been repealed. It is most likely that it was intended to supplement P.L. No. 5-11 to certify "immediate relative" status, but was poorly drafted. The status was to terminate upon "termination of the permittee's status as an 'Immediate Relative'". There appears to be very few such entry permits issued and they were all issued to holders of 5-11 permanent residence status. Since immediate relative status must be determined as of the date of termination, these entry permits are of little value. Furthermore, they should not have been honored after July 15, 1982 when the section was repealed.

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<sup>8/</sup>This raises the difficult issue of whether a 5-11 permanent resident is a "resident worker" within the meaning of P.L. No. 3-66. 3 CMC §4412(j) defines a "resident worker" as a citizen or national of the U.S., one granted national or citizenship status pursuant to Commonwealth law or who is "legally residing without restrictions as to employment in the Commonwealth". P.L. No. 5-11, Section 3 specifically maintains all labor restrictions. The green card erroneously lifts them. P.L. No. 3-105 makes the permanent resident a nonalien, but this is only for immigration purposes. The issue arises whether constitutionally one can be a nonalien permanent resident and be subject to labor restrictions based on alienage. This will have to be addressed in a future opinion.

<sup>9/</sup>At the time of its adoption the Committee on<sup>\*</sup> Judiciary and Governmental Operations in the House of Representatives had recommended that P.L. No. 5-11 be repealed. H.B. No. 158, the subject of the report, had been introduced 7 months earlier to effect the repeal.

Repeal of Public Law No. 5-11

P.L. No. 5-11 was repealed on April 23, 1981 by P.L. No. 2-17. While P.L. No. 5-11 was repealed in its entirety, P.L. No. 2-17 safeguarded the rights and status of "any person granted permanent residency status pursuant to Public Law No. 5-11 prior to the effective date of this Act". In addition, applications were to be processed for those who had already applied for the status. The reasons for the closing of the class were explained in a Report of the Committee on Judiciary and Governmental Operations House Bill 158 (January 27, 1981):

1. permanent resident status should not be granted until CNMI citizens become U.S. citizens;
2. from a political standpoint, aliens should not enjoy the benefits of this status without suffering the same hardships as the NMI people;
3. aliens will replace NMI persons in the labor market;
4. aliens will cause additional burden to government; and,
5. Covenant funding was projected only to accommodate the local population.

Administrative Response to the Repeal

175 grants of permanent residence status were made to persons who applied before the April 23, 1981 repeal. These green card holders will be designated Class "A" for convenience. Exhibit #2 is a list of presumably legitimate green card holders. The statistics show a surprising application pattern. In Sirilan v Castro, D.C.A. No. 83-9009 (App. Div. NMI Dist. Ct. 1984), the Court re-opened the application period due to alleged insufficient notice to aliens that P.L. No. 5-11 would be repealed. The statistics show that 67% of the applications were submitted in the final three weeks before the repeal when the Act was in effect for over 4 years!

Before 1981 (4 years period)	43 applications submitted
January 1981	7 applications submitted
February 1981	1 applications submitted
March 1981	7 applications submitted
April 1981	117 applications submitted

Since more people applied in the final days than in the four preceding years, many persons must have received notice that the Act was going to be repealed.

Unfortunately, there were several grants of permanent resident status made to persons who applied after the repeal of the Act. These cards, called Class "B" cards, are listed in Exhibit #3. Since the authority for granting cards no longer existed, then the acts granting the cards were ultra vires and the cards void ab initio. Even where a person has for many years acted in reliance upon an immigration decision, the decision may be disregarded if there is clear, unequivocal and convincing evidence that it is in error. Lee Hong Lung v. Dulles, 251



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P.L. 719, 721 (9th Cir. 1958). In revoking these cards, any person who would have been entitled to 5-11 permanent residence should be allowed to re-apply as part of the Sirilan v. Castro class.

The CNMI green card was re-printed in 1982 (Exhibit #4), eight months after the law was repealed. The card is improved. It cites P.L. No. 5-11 as the authority for its issuance. It does not recite a finding of "immediate relative" status. And, there is no exemption from the Protection of Resident Workers Act.

#### Amendment of Regulations

On July 15, 1982 the Immigration regulations were published with an amendment to Section 11.8(b). It took effect on July 25, 1982. It changed the criteria of the permanent resident entry permit to:

1. an alien who legally entered and is living in the CNMI;
2. the alien is the spouse or a legal unmarried child under the age of 18 of a T.T. citizen; and,
3. the T.T. citizen has been domiciled in the CNMI for at least five years prior to submission of the petition.

The regulation blends both 506(c) requirements of permanent residency and immediate relative status. The danger in this is that one must remember these factors are determined only on the date the trusteeship terminates. If a status is created to match this future class, it would look like this:

1. the alien must have been an actual resident of the NMI for at least five years immediately prior to application, and
2. he or she must be the immediate relative, within the meaning of 8 U.S.C. §1101(b), of a holder of a CNMI certificate of identity.

The actual regulations falls short on several accounts:

1. the category of parents as immediate relative is omitted,
2. T.T. citizens are recognized as one group of future U.S. citizens, but native-born persons (section 301(a)) and aliens (Section 301(c)) are omitted,
3. the T.T. citizen may not qualify as a future citizen under Section 301(b), and
4. the number of years of residence or domicile of the T.T. citizen is irrelevant (regulation should focus on the alien's residence).

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<sup>10/</sup>This is possible since the majority of the applications filed before the cut-off date were granted after the repeal. Nearly all were granted, for some reason, after the date of printing for the revised card.

On the positive side, the regulations do recognize that permanent resident entry permits are not the same as a grant of permanent resident status. An entry permit is issued only to aliens. Holders of entry permits can be deported, excluded for more reasons, and must register annually.

The permanent resident entry permit "shall be considered null and void automatically upon termination of permittee's qualifying status . . ." Part 11.8(b)(2). So, if a spouse divorces, a child grows older than 18, or he marries, the entry permit is automatically null and void.

A more difficult problem is the legal life of the entry permit. Part 11.5 of the Immigration regulations, in effect from March of 1981 until present, provides that permits may not exceed one year in duration. The original Part 11.8(b) provided for an indefinite permit; but, that section was "repealed and voided in its entirety". Part 11.8(b)(7). We recommend that the new Immigration regulations, if they carry this entry permit forward, provide for an annual renewal of the entry permit.

Finally, Part 11.8(b)(6) purports to exclude the permittee from "the mandate of Title 49 Trust Territory Code". 49 TTC §3(d) includes as resident workers an "immigrant alien admitted to the Trust Territory for permanent residence under the provisions of title 53 of this Code". Title 53 does not mention permanent residence, but 53 TTC §53(2) provides for authority in the High Commissioner to issue entry permits. This authority was transferred to the Chief of Immigration after the administrative separation from the TTPI. The regulations at issue establish permanent residents. So, we obtain the unusual result of Immigration exempting persons from the Protection of Resident Workers Act.

#### White Cards

The amended regulations require that a card be granted evidencing the permanent resident entry permit that is distinct from the P.L. No. 5-11 green card. On August 3, 1982, the first white card was issued. (Exhibit #5) To date, 245 white cards have been issued. (Exhibit #6)

The issue arises whether white card holders are nonaliens under P.L. No. 3-105. It was shown earlier that the definition of alien does not include permanent residents. Permanent resident:

. . . means a person granted permanent resident status in the Commonwealth of the Northern Mariana Islands by operation of statute. Section 3(t).

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<sup>11/</sup> Also cited as authority is 53 TTC §2. This section allows the High Commissioner to naturalize persons as Trust Territory citizens. Why it is cited is unknown.

Immigration and Naturalization Officer  
March 9, 1965

P.L. No. 5-11 is a statutory act which begins:

The Resident Commissioner may grant permanent resident status to persons . . .

White cards are granted pursuant to regulations and begins:

Permanent Resident entry permits are issued by the Chief . . .

The entry permit is not a status. An entry permit:

. . . means documentation authorizing the entry of a non-immigrant alien into the Commonwealth . . . P.L. No. 3-105, Section 3(k).

If the white card granted a status, one would be granted a nonalien status by receiving an entry permit for aliens!

The white card holder is an alien with an entry permit. He must register annually. He may be deported or excluded. He is not a 5-11 permanent resident. Ironically, the white card holder is probably a lot closer to becoming a United States lawful permanent resident upon termination of the trusteeship. He is both a resident and an immediate relative. The green card holder is only a permanent resident. Since "permanent resident" is the language of Section 506(c) and the criteria for residency is far less in the regulation than in P.L. No. 5-11, it may be questioned whether the white card holder is really a "permanent resident".

We believe that "permanent resident" should be defined by the CNMI legislature solely for the purpose of making Section 506(c) certifications. To date, P.L. No. 5-11 has taken a very restrictive definition and the regulations require white card holders only to live in the CNMI.

Here are our recommendations:

1. New green cards should be printed with proper citations and recitals and should be re-issued to green card holders. The new 5-11 applicants (Sirilan v. Castro) should be issued the former green cards.
2. Part 11.8(b) should be repealed abolishing all white cards. They are of no value to persons holding them for Section 506(c) purposes as the Covenant requires determination as of the date the trusteeship terminates. To avoid hardship, an "immediate relative" entry permit should be established. It would be annually renewable. This should await pending legislation in this area to avoid confusion.
3. Future legislation should be scrutinized to avoid expansion of the nonalien class.

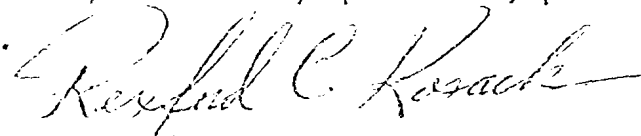
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- d. The invalidly issued green cards of Class B should be carefully reviewed. If the applicant would fall under Sirhan v. Castro, issue a new green card. If not, revoke the green card upon consultation with the Chief of Civil Litigation.
- e. White card holders should be contacted to register if they failed to register in 1985.
- f. This opinion shall be the policy of this office until amended or set aside by a court opinion. This policy should be communicated to green card and white card holders in order to fully apprise them of their immigration status.

If you have any questions, please contact me directly.



REXFORD C. KOSACK

CONFIDENTIAL 1

NORTHERN MARIANAS GOVERNMENT  
IMMIGRATION & NATURALIZATION OFFICE

PERMANENT RESIDENT ID CARD  
ALIEN No. \_\_\_\_\_

PHOTO

ISSUE TO _____		
DATE OF BIRTH _____	COUNTRY OF BIRTH _____	NATIONALITY _____
DATE OF ARRIVAL _____	PORT OF ARRIVAL _____	SEX _____

The rightful holder of this Identification Card is a lawful permanent resident of the Commonwealth granted pursuant to Chapter 1 Subsection 2 of Title 53 TTC, and had the Immediate Relative status denoted in Subsection 201(b) of the Immigration and Nationality Act, as certified by the Government of the Northern Mariana Islands.

This identification Card is valid for entry into the Commonwealth for an indefinite period. The rightful holder of this Identification Card do not have to comply with Title 49 TTC, Protection of Resident Workers Act.

	DATE FILED
Alarcon, Mat Trinidad J.	04/15/81
Alar, Roberto M.	04/16/81
Alcantara, Ernesto E.	04/20/81
Alia, Leonardo P.	04/16/81
Almagro, Eleuterio Sr.	04/16/81
Arcala, Armando S.	04/20/81
Armasion, Alejo S.	04/16/81
Baluyot, Aida T.	04/20/81
Barasi, Bienvenida C.	04/20/81
Barcinas, Yoneko	03/09/81
Bergonia, Julian M.	04/08/81
Bicas, Raymundo L.	04/20/81
Cabaltica, Reynaldo E.	04/20/81
Callo, Corazon M.	04/20/81
Capati, Rodrigo M.	04/20/81
Carlos, Romeo D.	04/20/81
Choi, Pyung Kuk	04/23/81
Clemer, Amalia M.	04/20/81
Cueto, Valerio A.	04/20/81
Cunanan, Wilson F.	03/23/81
Dabu, Mariano C.	04/20/81
Datuin, Marina J.	04/16/81
Dela Cruz, Rafael Sr. B.	04/08/81
Dinco, Benjamin B.D.	04/20/81
Domingo, Alfonso M.	04/08/81
Domingo, Danilo I.	04/20/81
Dumas, Gildardo C.	04/15/81
David, Fernacio T.	02/11/81

D., Roberto A.	04/10/81
Itto, Benito E.	04/10/81
Encina, Salvador E.	04/10/81
Encio, Carlito M.	04/10/81
Encal, Artemio E.	03/20/81
Elayda, Jerezas E.	04/10/81
Echon, Gerardo E.	04/10/81
Guilo, Alfonso C.	04/15/81
Elayda, Miguel E.	04/10/81
Encio, Buenaventura	04/10/81
Escota, Apolinar E.	04/10/81
Estella, Gregorio B.	04/10/81
Evangelina Areopajita A.	04/10/81
Evangelista, Carlos C. (Filed application for P.L. 5-11 but was issued 11.8(b))	04/14/81
Florentino, Quintin P.	04/15/81
Flores, Arsenio N.	04/10/81
Edora, Mauro H.	04/10/81
Gonzales, Rosendo M.	04/01/82
Guiao, Bienvenido D.J.	04/15/81
Gamboa, Teofisto	04/15/81
Guiao, Benjamin D.	04/18/81
Guiao, Rodolfo C.	04/15/81
Hernandez, Arsenia D.	04/21/81
Hernandez, Corazon D.	04/21/81
Hernandez, Glenda D.	04/21/81
Hernandez, Jesus S.	04/20/81
Huertas, Generoso D.	04/08/81
Ignacio, Ireneo A.	04/15/81

Kim, Thum Kim	04/21/81
Kim, Chir-ka N	04/15/81
Quintan, Wenceslao	04/15/81
Leob, Rodolfo G.	04/07/81
Kim, Soo-In	04/21/81
Kim, An Young	04/20/81
Kim, Kwang Young	04/20/81
Kim, Hwa Cha	04/03/81
Lacaden, Jaime	08/03/79
Lauron, Rodino T.	04/20/81
Lee, Jae Il	04/23/81
Lee, Hong Sup	04/23/81
Lazaro, Fe Trinidad	03/25/81
Magallanes, Eduardo C.	04/15/81
Mora, Magdalena M.	04/08/81
Maglalang, Cresenciano J.	04/18/81
Maghanoy, Minerva N.	04/20/81
Maghanoy, Reuben D.	04/15/81
Mahinay, Felipe Q.	04/20/81
Makilan, Florentino R.	04/20/81
Manzano, Francly C.	04/15/81
Miyagi, Michihiro	04/16/81
Magbiro, Norberto R.	04/20/81
Mendoza, Conrado L.	04/15/81
Mendez, Meliton R.	04/15/81
Mendoza, Roberto L.	04/15/81
Mendoza, Rosario G.	04/15/81
Milan, Ignacio J.	04/08/81



Martinez, Leonardo D.	04/08/81
Martinez, DOMA A.	04/08/81
Martinez, Alexander A.	04/22/81
Mazaira, Reynato M.	04/08/81
Misco, Juanito L.	04/09/81
Ocampo, Teodoro S.	04/02/81
Ospino, Magdalena F.	04/08/81
Padua, Herman Q.	04/08/81
Pamintuan, Angelina M.	04/10/81
Pascua, Antonio C.	04/18/81
Quiatchon, Emilio P.	04/08/81
Ramirez, Julita P.	04/08/81
Rejano, Fortunato R.	04/08/81
Reyes, Felisa S.	04/08/81
Santos, Gonzalo M.	04/08/81
Santos, Johanna B.	04/08/81
Santos, Jose R. Jr.	04/20/81
Sanchez, Romeo R.	03/24/81
Sison, Rogelio C.	04/08/81
Soriano, Inocencio L.	04/18/81
Sudlon, Jose M.	04/08/81
Takaesu, Yukichi	04/16/81
Tiro, Norma S.	04/08/81
Tolentino, Ernesto S.	04/08/81
Trinidad, Adolfo S.	04/08/81
Tabera, Dionisia S.	04/10/81
Umayam, Ervinio E.	04/18/81
Umayam, Carlito E.	04/10/81
Uehara, Seisaburo	04/16/81

Yacuzzi, Buenaventura	04/10/81
Yacuzzi, Meliton P.	04/10/81
Yacuzzi, Eugenio C.	04/10/81
Yanga, Manuel T.	04/21/81
Yan, Rufino P.	03/24/81
Yun, Young Eul	04/23/81
Zapanta, Vivencio N.	04/10/81
Zgot, Alberto P.	04/16/81
Alepuyo, Lourdes C.	05/21/79
Aldan, Eve G.	12/14/79
Angeles, Silvestre D.	03/05/78
Mendiola, Aniceta R.	01/19/81
Andrea, Florentino V.	01/30/81
Borromeo, Francisco P.	11/10/77
Bowie, Alexander J.	01/05/78
Cabrera, Aida D.	05/01/80
Cabrera, Dolores B.	06/01/80
Carreon, Arceli D.	12/01/79
Cordero, Quirino A.	06/20/80
Dela Cruz, Geroncio V.	08/17/78
Del Rosaric, Valentin G.	11/02/79
Deleon Guerrero, Rufino P.	02/14/79
Dizon, Rolando V.	05/08/79
Echon, Nicolas E.	01/29/81
Echon, Rosevelt E.	12/22/77
Evangelista, Augusto C.	07/03/79
Esteves, Josefina B.	12/11/79
Flores, Gabriel V.	11/17/80
Guiao, Orlando C.	03/03/78

G. Arerero, Sa Ok Soon	12/18/80
Conzales, Alfredo A.	11/23/77
Kim, Ghum Kim	04/21/81
James, Cynthia K.	02/21/81
Jose, Joselito A.	07/13/79
Kase, Toshiichi	09/15/80
Matsumoto, Teresita S.	03/30/78
Montano, Bayani C.	08/27/80
Okawa, Ryo	10/03/77
Ocampo, Juanito S.	12/02/80
Pangelinan, Lina P.	03/07/79
Remoquillo, Pedro A.	03/20/80
Reyes, Gregorio T.	01/08/81
Sablan, Jung Sook	02/14/80
Salalila, Leonardo V.	07/25/79
Santos, Myrna M.	02/05/80
Semana, Apolonio M.	03/16/78
Supnet, Samuel D.	03/17/78
Suzuki, Kiyooki K.	05/07/79
Tabhan, Eugenio S.	11/07/77
Tabunar, Carlos M.	11/15/77
Venus, Aida F.	01/12/81
Venus, Victor T.	01/12/81
Villagomez, Engracia P.	04/21/81
White, Michael A.	09/13/77
Yumul, Avelino B.	10/19/77
Wania, Leonardo	03/15/81
Basaliso, Rodolfo S.	02/12/80
Baja, Arturo C. Jr.	03/25/81
Tosha, Keeko	04/15/81

Lozano, Roberto P.

12/29/77

Javier, Norbert M. Jr.

11/06/77

Camu, Ermito C.

10/07/80

DEAL 175

GROUP B

Filed Applications after 23 April 1981 but were granted green cards under provision of P.L. 5-11.

<u>Name</u>	<u>Date Filed</u>
1. FLORES, Rosita	12-1-82
2. QUITANO, Nelyda	10-26-82
3. ARANDA, Reynaldo	11-26-82
4. DELOS REYES, Lerma	8-27-82
5. NISHIMURA, Arimitsu	9-28-82
6. RIVERA, Calixto	8-31-82
7. BALBIN, Fernando	9-28-82
8. MATSUNAGA, Elsie	8-20-82
9. MANIBO, Aledonio	9-1-83
10. BUNIAG, Alejandro	7-9-84
11. TENORIO, Iluminada	7-24-84
12. PANGELINAN, Mercedes	6-28-84
13. FORBES, Federico	3-14-84
14. SEKI, Jumio	9-21-82
*15. TORRES, Isabelita	9-17-84

\*Petition submitted but no application for Permanent Resident.

EXHIBIT 4

Northern Marianas Government  
Immigration and Naturalization Office

PHOTO

ALIEN IDENTIFICATION

CARD NO. \_\_\_\_\_

issued to \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Nationality \_\_\_\_\_ Sex \_\_\_\_\_ Marital Status \_\_\_\_\_

Date of Entry \_\_\_\_\_ Port of Entry \_\_\_\_\_

Date of Issue \_\_\_\_\_ Authority \_\_\_\_\_

(2)

The rightful holder of this identification card is a permanent resident of the Northern Mariana Islands granted pursuant to Public Law 5-11 enacted by the Fourth Northern Mariana Islands Legislature on April 1, 1977.

This Identification Card is valid for entry into the Northern Mariana Islands for indefinite period and is revocable at anytime upon order of the GOVERNOR of the Northern Mariana Islands. Holder of this card is subject to annual registration provided by PART 11-10 of the INO Regulations. This permit must be in possession of the holder at all time.

Revised

1/82

COMMONWEALTH OF MASSACHUSETTS

NAME: \_\_\_\_\_  
 SEX: \_\_\_\_\_  
 DATE OF BIRTH: \_\_\_\_\_  
 PLACE OF ENTRY: \_\_\_\_\_  
 DATE OF ENTRY: \_\_\_\_\_  
 MONTH: \_\_\_\_\_ DAY: \_\_\_\_\_ YEAR: \_\_\_\_\_

This person has been duly registered according to law  
 IMMIGRATION AND NATURALIZATION OFFICE  
 Office of the Attorney General

(5)

PHOTOGRAPH

IMPORTANT NOTICE

The rightful holder of this Identification Card is a lawful permanent resident of the Commonwealth granted pursuant to Part 11.8(b) of the INO Regulations, and Chapter 1 Subsection 2, of Title 53 TTC.

The rightful holder of this Card is exempted from the Provisions of Title 49 and 53 of the Trust Territory Code. The rightful holder is subject to the Annual Registration of alien under PART 11.10 INO Regulations for Title 53 TTC.

those who were granted "White Cards" after 26/7/80 .

(Those who were granted "White Cards" after 4/25/81 to 7/26/82)

<u>NAMES</u>	<u>DATE ISSUED</u>
Msqullo, Nelson G.	08/19/82
Castro, Zenaida	08/16/82
Arizola, Jessie A.	08/27/82
Cabrera, Susan Go	08/27/82
Valdez, Eleno G.	09/17/82
Borja, Norma A.	08/30/82
Sablan, Aida S.	08/27/82
Revira, Calistro Z.	08/31/82
Okawa, Royo	08/27/82
Lizama, Duk-ye Han	10/07/82
Dumale, Alejandro P.	10/27/82
Park, Dae-Young L.	10/22/82
Acosta, Zenaida F.	09/13/82
Siblang, Pablo V.	09/13/80
Marchadesch, Andres Y.	09/10/82
Merano, Alfonso M.	09/09/82
Afable, Rolando A.	09/02/82
Santos, Antonino S.	08/16/82
Lobrin, Bienvenido B.	08/16/82
Aquino, Federico S.	12/06/82
Aranada, Reynaldo A.	11/26/82
Borja, Rosa C.	10/27/82
Borja, Fe B.	12/14/82
Borja, Esperanza S.	09/29/82
Bombon, Luis C.	12/21/82
Cachero, William A.	12/21/82



Casa, Ermito	12/10/82
Camao, Maria P.	12/28/82
Corpea, Ruben S.	11/09/82
Cruz, Chung-Chil Pek	10/07/82
Cordero, Quirino A.	11/15/82
De Guzman, Conrado R.	11/26/82
Dejillas, Pantaleon	11/22/82
Delos Reyes, Lerna F.	06/27/82
Hermosilla, Rodolfo	01/12/83
Forbes, Federico S.	03/14/83
Cruz, Ki-Be Yoon	02/17/83
Cruz, Mi-Rea Yoon	02/17/83
Cruz, Ramon M.	04/09/83
Arichita, Teodoro H.	10/08/82
Arcala, Bernie Q.	04/21/83
Arriola, Erlinda F.	06/10/83
Evangelista, Marisol O.	07/06/84
Fvangelista, Marcela O.	07/06/84
Taman, Alicia G.	07/06/84
Pangelinan, Mercedes	06/28/84
Pangelinan, Edward M. M.	06/28/84
Pangelinan, Everly M.	06/28/84
Ablog, Violeta C.	06/29/84
Ablog, Tracey J. C.	06/29/84
Ballesteros, Lilibeth	05/10/84
Ngeskebei, Ramela T.	06/17/84
Dela Cruz, Cynthia M.	08/08/84
Ermitanio, Carolina B.	07/23/84
Ermitanio, Francisco Jr. B.	07/23/84
Ermitanio, Arnel B.	07/23/84

Macalinao, Luvininda M.	07/09/84
Ebeter, Devina-Gracia S.	07/10/84
Ebeter, Ma. Preciosa S.	07/10/84
Villacrusis, Alena P.	07/27/84
Villacrusis, Joseph P.	07/27/84
Villacrusis, Leticia P.	07/27/84
Delos Reyes, Sonia	04/18/83
Poblete, Rodolfo A.	11/15/82
Del Rosario, Valentine	09/24/82
Balbin, Fernando O.	09/23/82
Yumul, Avelino B.	09/29/82
Resurrecion, Roberto M.	09/28/84
Fojas, Theodoro Jr. G.	09/30/83
Suzuki, Kiyooki	10/30/82
Pinaula, Concepcion G.	10/06/82
Decena, Benedicto G. Jr.	10/07/82
Hofschneider, Vivian V.	10/07/82
Atalig, Isabel R.	10/07/82
Javier, Jose R.S.	10/07/82
King, Hwa-Cha Han	10/07/82
Barcinas, Yolanda L.	10/07/82
Evangelista, Evelyn	10/07/82
Hagishima, Takaji	10/07/82
Cabrera, Soon Kim	11/03/82
Sablan, Victoria A.	10/07/82
Mendiola, Erlinda S.	10/07/82
Kumagai, Tadao	10/13/82
Salalila, Leonardo V.	10/14/82
Arizapa, Venusto	10/13/82
Agulto, Dalia H.	10/30/82

Cabrera, Cec	02/17/83
Lizama, Kazuko	06/02/83
Locey, Eleanor T.	05/13/83
Mendiola, Ma. Luz D.	07/05/83
Pangelinan, Elenita S.	10/22/82
Takanobu, Shiji	05/17/83
Taisacan, Gliceria D.	01/17/83
Taitano, Patricia	06/01/83
Torres, Teodora S.	06/23/83
Rim, Song-Chul	04/28/83
Mendiola, Remedios L.	06/17/83
Camacho, Cecilia H.	08/02/83
Imperial, Wilfredo	04/15/83
Arriola, Luzviminda F.	06/07/83
Tarope, Francisca A.	06/09/83
Santos, Dean P.	08/29/83
Hernandez, Roger S.	09/16/83
Mora, Merlino	01/25/83
Matsunanga, Ma. Cynthia	04/20/83
Agulto, Paciencia P.	09/23/83
Aranda, Wilfredo P.	09/13/83
Cabrera, Carolina P.	07/01/83
Evangelista, Mitsue	07/18/83
Sablan, Evelyn J.	08/20/82
Babauta, Aurelia Q.	08/16/82
Tudela, Eloisa E.	09/14/82
Palacios, Erlinda G.	08/12/82
Borja, Soledad D.	09/14/82
Cabrera, Ma. Rosario A.	08/16/82
Palma, Norman A.	08/26/82

Onuki, Yoshi	06/20/82
Puyat, Loreto T.	09/26/82
Aquino, Federico C.	08/20/82
Cabrera, Leonida R.	08/25/82
Suba, Marcus L.	08/31/82
Hernandez, Norberto	08/31/82
Tenorio, Annabelle R.	09/08/82
Ishii, Marichika	09/16/82
Eusebio, Ponciano P.	09/16/82
Tudela, Dolores C.	09/17/82
Basaliso, Rodolfo S.	09/20/82
Buniag, Daniel C.	09/20/82
Cabrera, Cleofe E.	09/22/82
Seki, Kunio	09/21/82
Villar, Dominador	09/23/82
Santos, Gloria P.	09/14/83
Torres, Virginia B.	10/03/83
Reyes, Livita D.	09/12/83
Reyes, Teresita V.	07/07/83
Manahane, Kumiko	10/03/83
Cabrera, Nievla C.	10/31/83
Balisalisa, Ceferino B.	06/24/83
Deleon, Jaime N.	11/09/83
Mulieta, Consolacion	10/19/83
Villagomez, Ma. Dolores	01/24/83
Mag-Atas, Albert U.	07/25/83
Santos, Ma. Gina H.	11/09/83
King, Lilia M.	09/30/83
Kobayashi, Sakujiro	11/25/83
Esteves, Jonas	03/30/83

Estevés, Jov B.	05/30/83
Younis, Abed E.	02/02/83
Camacho, Helen V.	08/08/83
Palaanias, Armando A.	10/12/83
Repeki, Patricia Q.	12/28/83
Cruz, Editha K.	01/06/84
Arriola, Perpetua V.	01/25/84
Cabrera, Yolanda C.	01/24/84
Decena, Rolando Dg.	07/06/84
Sablan, Delia R.	05/29/84
Park, Do Sik	05/23/84
Torres, Erlinda C.	06/01/84
Quibiat, Jesus M.	06/15/84
Buniag, Alejandro S.	07/09/84
Bansil, Tito	06/18/84
Pangelinan, Renato	07/09/84
Taguchi, Joji	07/18/84
Lifoifoi, Felicidad C.	05/14/84
Serrano, Alejandra J.	07/11/84
Buccat, Anne-Luz M. M.M.	06/28/84
Buccat, Luz M.	06/28/84
Guião, Jean A.	07/03/84
Guião, Edward A.	07/03/84
Malacas, Sabina	06/26/84
Taitano, Isagani C.	06/26/84
Taitano, Bernaid C.	06/26/84
Taitano, Irene C.	06/26/84
Castillo, Arturo A.	07/13/84
Dela Cruz, Geroncio	10/22/82
Quitano, Nelyda S.	10/26/82

Borja, Carmencita A.	10/26/82
Del a. Guerrero, Ricko	11/01/82
San Nicolas, Rosario G.	01/07/83
Somtoye, Vongsa	11/16/82
Trinidad, Rodante P.	12/22/82
Yu, Yung-An	12/10/82
Kashi, Akio	11/19/82
Lazaro, Roberto P.	11/04/82
Manglona, Esperanza S.	12/21/82
McEntee, George P.	01/20/83
Mendiola, Eleanor T.	01/14/83
Menzies, Jodynnnet T.	11/24/82
Menzies, Nadine K.	11/24/82
Menzies, Shawn J.	11/24/82
Menzies, Wayne W.	11/24/82
Nirio, Eduardo G.	02/07/83
Mori, Kensuke	08/26/82
Ada, Fujie	01/25/83
Aguon, Hediko	02/22/83
Akiyoshi, Yamagishi	11/02/82
Mostales, Riolante S.	08/05/82
Cepeda, Ma. Corazon B.	08/05/82
Sablan, Melba A.	08/06/82
Acera, Luis A.	08/06/82
David, Carlito M.	08/06/82
Mamaril, Epecido M.	08/09/82
Manansala, Carlito M.	08/06/82
Evangelista, Carlos C.	08/11/82
Ordillano, Ruperto S.	08/16/82
Aguon, Iluminada A.	08/23/82

Pacapular, Jose R.G.	04/10/84
Pacapular, Catherine G.	04/10/84
Puella, Bernadette C.	03/27/84
Javier, Evangelina A.	10/01/84
Oikawa, Minoru	09/23/82
Pojas, Theodoro Jr.	09/30/82
Nishimura, Arimitsu	09/28/82
Matsunaga, Elsie O.	08/20/82
Acera, Luis A.	08/06/82
Cepeda, Ma. Corazon	08/06/82
Cepeda, Eilleen B.	08/16/82
Carlos, Primitivo D.	08/25/82
Cruz, Teresita C.	10/07/82
Javier, Rodante J.	10/07/82
Lizama, Albina G.	09/09/82
Torres, Lelina T.	09/22/82
Macalinao, Lualhati M.	07/09/84
Castillo, Arturo A.	07/13/84

Those Who Were Granted "White Cards" Under Regs. (11.8(b)  
From 04/23/81 Thru 07/26/82

Tenorio, Iluminada L.	07/24/82
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TOTAL 245

Cepeda, Eillen B.	08/16/82
Domingo, Jess Emmanuel G.	08/04/82
Marinasan, Nilda M.	08/13/82
Babauta, Remedios Q.	08/09/82
Dangca, Termin C.	08/10/82
Macabenta, Francisco G.	08/02/82
San Pedro, Ricardo V.	08/24/82
Alepuyo, Lourdes C.	08/25/82
Biadang, Cortez B.	08/11/82
Canacho, Adoracion B.	08/20/82
Babauta, Nora M.	10/12/83
Ono, Kozo	01/10/84
Borja, Wenifreda V.	12/15/83
Manibo, Celedenio	09/01/82
Esteves, Jonathan B.	01/24/84
Esteves, Elias B.	01/24/84
Benavente, Lorna	05/09/83
Chang, Hung Ki	11/15/82
Delos Reyes, Dalisay	02/13/84
Ramos, Arnesto P.	01/20/84
Castro, Elenita E.	01/19/84
Robinson, John H.	09/07/83
Sablan, Virginia T.	01/20/84
Alba, Romulo A.	12/13/83
Diaz, Elena L.	03/26/84
Babauta, Nobuko T.	03/05/84
Cabrera, Norma Dy	04/27/84
Deleon, Romeo M.	05/08/84
Quitano, Natividad F.	09/19/83
Pagapular, Cecilia G.	04/10/84



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Filed  
District Court

1986 FEB 13 10:10 AM

WD

For The Northern Mariana Islands

By \_\_\_\_\_

IN THE DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

LEO S. PANGELINAN, DAVID K. : CIVIL ACTION NO. 85-0022  
PETER, STACY POUNDS, and :  
EMMET KAY, :

Plaintiffs, :

-v- :

GOVERNMENT OF THE NORTHERN : OPINION, JUDGMENT and  
MARIANA ISLANDS, :  
ORDER.

Defendant. :

This matter came on for hearing on Plaintiffs Motion for Summary Judgment on February 11, 1986. After considering the briefs and papers filed and after listening to the arguments of counsel, IT IS HEREBY ADJUDGED DECREED and ORDERED:

OPINION

Constitutional Amendment No. 44 proposed by the Second Northern Marianas Constitutional Convention and certified as having been adopted by referendum is an act proposed and adopted beyond the scope and powers of the Convention and the voters to enact. Amendment 44 is an Ultra Vires Act.

44 proposes to amend Section 8 of the Schedule on Transitional Matters. The Schedule on Transitional Matters contains transitional provisions which "remain in effect until their terms are executed" ..... these are not provisions which remain in effect unless sooner modified or repealed.

Further description of the Schedule states that "once each year the Attorney General shall review the following provisions and certify to the Governor which have been executed. Any provision so certified shall be removed from this Schedule and no longer published as an attachment to the Constitution." It stands to reason that if any provision within the Schedule can be removed by the passage of time alone, it is not then subject to modification or repeal by the process of amending the Constitution as provided by Article XVIII which spells out the manner by which the Constitution can be amended.

This Schedule deals with and controls transitional matters from January 1978 to the time the Trusteeship is terminated at which time the Northern Mariana Islands become a full fledged Commonwealth. It is an "attachment" to the Constitution. It is not a part of the body of the Constitution which constitute the permanent laws of the Commonwealth of the Northern Mariana Islands and which are subject to repeal or modification under the provisions of Article XVIII of the Northern Mariana Islands Constitution.

Each of the 14 transitional provisions in the Schedule will become fully executed when the Trusteeship is terminated. Seven of these have already been certified as executed by the Attorney General and are no longer a part of the Schedule. When termination occurs there will no longer be any interim U.S. citizens--an event which occurs not by reason of any amendment but by reason that its sole existence was necessitated by the interim status of a commonwealth awaiting transition into full commonwealth entity.

Amendment 44, being an attempt to amend a provision contained within the Schedule of Transitional Matters and is not in reality an amendment to provisions contained in the Constitution nor is it an amendment to add to or delete from the body of the Constitution. . . for which purposes the Convention was convened, was an Ultra Vires Act--performed beyond the authority, scope and powers of the Constitutional Convention.

Amendment 44 is, therefore, hereby declared to be null and void and is of no force and effect.

#### JUDGMENT AND ORDER

1. Plaintiffs Motion for Summary Judgment submitted on Argument II of Plaintiffs brief regarding Ultra Vires is hereby granted; Judgment is for Plaintiffs herein and such judgment shall be entered by the Clerk.

2. This Court declares that the subject Amendment 44 is null and void and is of no force and effect.

3. This Court declares that the original Section 8 of the schedule on transitional matters was never amended, is hereby restored and remains, in full force and effect.

4. This Court declares that the run-off election held in Saipan on February 1, 1986 is null and void and of no force and effect. This Court further declares that the votes cast in that election are not to be tallied nor used for any purpose. This declaration and order is made in view of the Court's previous injunctive order against any action being taken by Defendant to enforce or implement the subject Amendment 44 pending determination of this lawsuit which order was inadvertently violated during the election held on February 1, 1986. Defendants had agreed and stipulated before entry of injunctive order that no enforcement action of any kind would be taken.

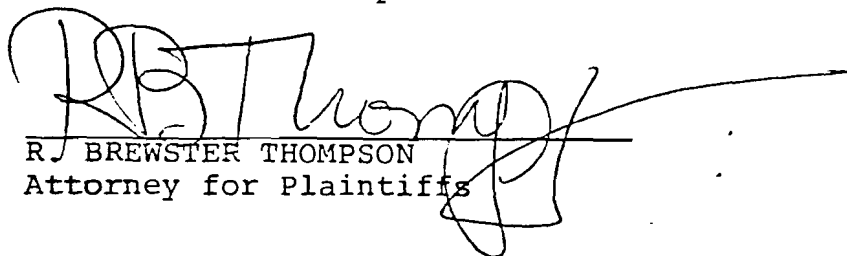
5. Both counsel for the Plaintiffs, R. Brewster Thompson, Esq. and for the Defendants, Alex Castro, Esq., are commended by this Court for their handling of this controversial matter. Each counsel showed diligence, intelligence and maturity in the presentation of their respective positions in a manner appropriate for commendation.

6. Costs, including attorney's fees are awarded to Plaintiffs, the prevailing party herein.

Approved as to form and content.

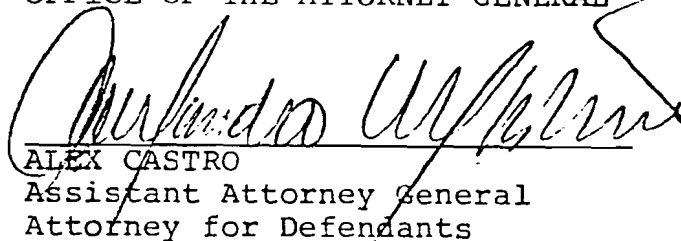
WHITE, NOVO-GRADAC AND THOMPSON  
A Professional Corporation

Dated: 2/12/86

  
R. BREWSTER THOMPSON  
Attorney for Plaintiffs

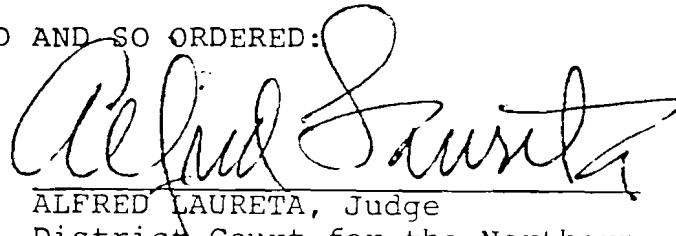
OFFICE OF THE ATTORNEY GENERAL

Dated: 2/10/86

  
ALEX CASTRO  
Assistant Attorney General  
Attorney for Defendants

IT IS APPROVED AND SO ORDERED:

Dated: 2/13/86

  
ALFRED LAURETA, Judge  
District Court for the Northern  
Mariana Islands

FILED

30 MAY 16 09:56

COMM. OF THE NORTHERN MARIANA ISLANDS  
BY: *[Signature]*  
CLERK

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
COMMONWEALTH TRIAL COURT

MARIA T. PANGELINAN,	)	CIVIL ACTION NO. 86-286
	)	
Plaintiff,	)	
	)	
vs.	)	<u>PRELIMINARY INJUNCTION</u>
	)	
COMMONWEALTH OF THE NORTHERN	)	
MARIANA ISLANDS,	)	
	)	
Defendant.	)	
_____	)	

This matter came on for hearing May 15, 1986. Both parties were represented by counsel and upon the request of the Fifth Northern Marianas Commonwealth Legislature, it was allowed to file an amicus curiae brief and argue the matter.

This written order is issued pursuant to Com.R.Civ.P. 65(d) and reduces in writing the reasons stated in open court for the issuance of the preliminary injunction.

The court finds that the plaintiff has standing to sue. Not only is she a citizen, resident, and taxpayer of the Commonwealth, she was also a delegate to the Second Commonwealth of the Northern Mariana Islands Constitutional Convention. This matter is directly related to Amendment No. 9 passed by that Convention.

Standing is accorded in this jurisdiction to a person standing in the plaintiff's shoes to enjoin the unconstitutional expenditure of the funds of the Commonwealth. Manglona v Camacho, CTC 80-177, aff'd DCA 82-9009 (11/10/83); Romisher v MPLC, CTC 83-401.

Although no specific government officials are named as defendants, the court will specify those who are specially ordered to abide with the terms of this injunction as officers, agents, and employees of the Government pursuant to Com.R.Civ.P. 65(d).

The court finds that the plaintiff has met the test of showing probable success on the merits and the possibility of irreparable injury. Additionally, the plaintiff has raised serious constitutional questions and that the hardship falls sharply in favor of the moving party for the reasons stated herein.

Constitutional Amendment No. 9 was passed by the Constitutional Convention and became part of the Constitution after the electorate approved it and when it was certified by the Board of Elections on January 7, 1986 pursuant to the constitutional and statutory provisions of the Commonwealth.

It reads:

"Budget Ceiling. There shall be a ceiling on the budget of the legislature.

a) Appropriations, or obligations and expenditures, for the operations and activities of the legislature

may not exceed two million eight hundred thousand dollars in any fiscal year. This ceiling on the legislative budget shall be divided equally between the Senate and the House of Representatives.

b) Obligations and expenditures for the operations and activities of the legislature for the period October 1 through the second Monday in January of a fiscal year in which there is a regular general election, may not exceed seven hundred thousand dollars or the spending authority otherwise available by law, whichever is less. This ceiling shall apply to the various offices and activities in the same proportions as the annual spending authority provided by law."

Transition Provision. Upon ratification, the ceiling imposed by this amendment shall apply to the legislature on a pro rata basis computed with respect to the number of days remaining in the periods specified."

The intent of the amendment is clear and unequivocal. It places a cap (ceiling) on the expenditures of both houses of the legislature in any one fiscal year. Put another way, the electorate approved an amendment to the Constitution which prohibited the government to allow public funds in excess of a certain amount to be expended for the legislative branch of the government.

Public Law 5-1 appropriated \$2.8 million for the legislature for fiscal year 1986. This is clearly compatible and in compliance with Amendment No. 9.

This lawsuit was spawned by Public Law 5-9 which "allocates" \$540,000 for the salaries of members of the legislature. This law is just as clearly in violation of Amendment No. 9 when the \$540,000 is added to the previously appropriated \$2.8 million.



To circumvent Amendment No. 9, several arguments are advanced by the Government and the Legislature.

The Government argues that members salaries are excluded from the terms of Amendment No. 9 because in the discussion of the amendment by the delegates in the Convention only staff salaries were mentioned. This argument is spurious. When the Convention and the electorate set a ceiling on the budget of the legislature, they meant what was said. As stated above, the terms of the amendment are clear.

It is also argued by the Government that Article II, Section 10 of the Constitution is an appropriation of the members salaries and this is separate and apart from Amendment No. 9 and is in addition to the amount set forth therein.

Article II, Section 10 sets forth a salary of \$8,000 not the \$30,000 per member upon which Public Law 5-9 is based. The \$30,000 amount became about because of a salary adjustment provision in Public Law 4-32 which raised the salary of the legislators. This law authorizes the payment of \$30,000. Public Law 5-1 appropriates the money to pay those salaries. This, of course, is in compliance with 1 CMC § 7401, in the Planning and Budget Act of the Commonwealth which requires an appropriation act before public funds can be expended.

Two cases are cited by the Government in support of the proposition they advance. Riley v Carter, 25 P.2d 666 (Okla, 1933) and In Re Application of Marga, 631 P.2d (Okla, 1981).

These cases hold essentially that if a constitutional provision provides a set salary for an official and the legislature fails to appropriate the money, the constitutional provision is sufficient authority for the public funds to be expended for the official.

The inapplicability of these cases to the one at bar is obvious. Here, the constitutional provision is \$8,000 per member. Funds have been appropriated to pay the members salaries now set by statute (P.L. 4-32). Article II, Section 10 would come into play under the authority of Riley and Marga only if there was no appropriation and then each member would get only \$8,000.

The Legislature argues that P.L. 5-9 does not appropriate \$540,000. In this respect, the court agrees with the Legislature. Not only is the term "appropriation" not used, there is nothing in the caption of Public Law 5-9 which refers to or designates an appropriation to the legislature. Pursuant to Article II, Section 5(b) of the Constitution, it is mandatory that appropriation bills be limited to the subject of the appropriation. This is not even subject to judicial review. Thus, the "allocation" of \$540,000 for members salaries is a meaningless and wasted gesture in Public Law 5-9. The only funds appropriated for the legislature in fiscal year 1986 is the \$2.8 million in P.L. 5-1.

But then, the Legislature proceeds to argue that Article II, Section 10 mandates the payment of \$540,000 for members' salaries. No authority is cited for this proposition. The reasoning for such a conclusion rests pretty much on the same sort of theory the Government uses although the Legislature disowns the Government's argument that Article II, Section 10 is an "appropriation." In any event, it is asserted that the members of the legislature are constitutionally guaranteed a salary. Since Public Law 4-32 authorized a \$30,000 per annum salary for each member, ipso facto, \$30,000 is to be read into the place of \$8,000 which exists in Article II, Section 10. The fallacy of such reasoning becomes readily apparent. The basis of the \$30,000 salary is a public law not the constitutional provision. Any expenditures of funds authorized by law must be appropriated pursuant to 1 CMC § 7401. Even if \$30,000 was inserted in place of the \$8,000 in Article II, Section 10 it does not follow that this would circumvent Amendment No. 9 or Article II, Section 5(b) since even under Riley and Marga, *supra*, the constitutional provision comes into play only when the legislature itself fails to appropriate sufficient funds to pay \$30,000 times the members of the legislature (24) or \$720,000. The \$2.8 million already appropriated disposes of this.

Article II, Section 10 is inserted in the Constitution for one purpose, Amendment No. 9 is a part of the Constitution for another reason.

The court finds no substance or basis for the arguments presented by the Government or the Legislature and the court sees no obstacle to Plaintiff's ultimate success on the merits. Should the Government, through its proper officials not be enjoined from disbursing public funds in excess of those authorized by Amendment No. 9, they will be irretrievable. The very same citizens and taxpayers who approved Amendment No. 9 will be deprived of the fruit of the efforts of the delegates of the Constitutional Convention and, of course, their own action by having Amendment No. 9 inserted in the Constitution to limit legislative spending.

Since Amendment No. 9 came into effect in the midst of fiscal year 1986, some question exists as to the exact amount of funding available. The transition provision of the amendment has a pro rata provision in it to take care of the problem. The court is not aware of the spending level prior to January 7, 1986 and is not certain if this makes any difference since Public Law 5-1 appropriated the \$2.8 million. Prior to this on August 7, 1985, Public Law 4-54, Section 11, placed a spending limit of \$2.8 million on the legislature. This law was repealed by Section 7 of Public Law 4-68 on December 27, 1985. Thus, it appears that the spending limit of \$2.8 million for fiscal year 1986 was in effect for all but 11 days.

If any question remains as to the amount of funds unexpended for the balance of the fiscal year, either party may

cause this matter to be set down for further hearing. However, in order to fashion a preliminary injunction, certain in its terms and pursuant to the facts the court now has before it, the court shall establish the \$2.8 million as the current level subject to such change as either party may satisfactorily show at a subsequent hearing.

As to the officials to be named in the injunction, the Director of Finance is responsible for the disbursement of public funds (1 CMC § 2553(g)) and shall be so enjoined. A companion officer for the allocation of funding is the Special Assistant for Programming and Budgeting and he shall likewise be included.

Accordingly, it is hereby ordered that:

The Director of Finance and the Special Assistant for Programming and Budgeting for the Commonwealth Government are hereby enjoined until further court order from disbursing, allocating or in any way allowing funds to be expended by the legislature of the Commonwealth Government which is in excess of those limits set forth in Amendment No. 9 passed by the Second Commonwealth Constitutional Convention, approved by the voters of the Commonwealth on November 3, 1985 and as certified by the Board of Elections on January 7, 1986. This spending limit is \$2.8 million for fiscal year 1986.

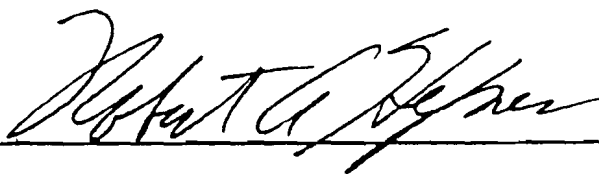
This order is without prejudice for either party to move to amend it to clarify the exact amount available for expenditures pursuant to transition provision of Amendment No. 9.

This order is also without prejudice to include additional officials of the Government who may have authority to disburse or allocate funds to the legislature.

No bond or security is required of the plaintiff.

Either party may move, upon 10 days notice, for a further hearing on whether this preliminary injunction should be made permanent.

Dated at Saipan, CM, 16th day May, 1986.

A handwritten signature in cursive script, appearing to read "Robert A. Hefner", is written above a horizontal line.

Robert A. Hefner, Chief Judge