

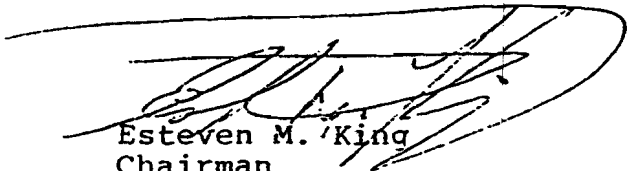
MEMORANDUM

TO : Legal Counsel, Attorney General
FROM : Committee on Personal Rights/Natural Resources
SUBJECT : Writ of Habeas Corpus and Title of Nobility

The Personal Rights/Natural Resources Committee has requested you to provide us with an opinion whether or not the following provisions are covered by the present language in the CNMI Constitution or Covenant:

"The privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion the public safety may require."

"No Title of Nobility shall be granted by the government of the CNMI and no person holding any office of profit or trust under them shall without the consent of the Legislature accept of any present, emolument, office, or title of any kind whatever, from any king, prince or foreign country."



Esteven M. King
Chairman

cc: President, 2nd CNMI Con-Con



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REXFORD C. KOSACK
ATTORNEY GENERAL

TO: Committee on Personal Rights

DATE: 6-25-85

FR: Legal Counsel

RE: Privilege of Writ of Habeas Corpus
Legal Opinion No. 3

QUESTIONS PRESENTED: Is the following provision covered by the present language in the Commonwealth of the Northern Mariana Islands Constitution or Covenant?

The privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion the public safety may require.

ANSWER: Yes.

DISCUSSION: Article V, Section 501 of the Covenant provides that Article I, Section 9, Clause 2, of the United States Constitution is applicable within the Northern Mariana Islands.

Article I, Section 9, Clause 2 of the United States Constitution provides:

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety can require it.

COMMENT: This language is almost identical to the proposed amendment to the Commonwealth of the Northern Mariana Islands Constitution. No further rights than now exist would be gained by amending the Constitution to add the above. However, there is no prohibition or conflict by doing so.

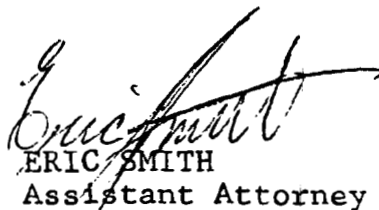
QUESTION PRESENTED: Is the following provision covered by the present language in the Commonwealth of the Northern Mariana Islands Constitution or Covenant?

No title of nobility shall be granted by the government of the Commonwealth of the Northern Mariana Islands and no person or trust under them shall without the consent of the Legislature accept any emolument, office or title of any kind whatever, from any king, prince or foreign country.

ANSWER: No.

DISCUSSION: A similar section to the proposed amendment of the Commonwealth of the Northern Mariana Islands Constitution is found in Article I, Section 9, Clause 8 of the United States Constitution. Section 9 of the latter Constitution places limitations on the United States federal government. Clause 8 prohibits the federal government from granting a title of nobility, and no person holding a federal office shall accept any present, salary, office, or title from a king, prince or foreign state without the consent of Congress. Article I, Section 9 is viewed by the Supreme Court as specific constraints on United States congressional power.

The Covenant makes Article I, Section 9, Clause 8 of the United States Constitution applicable within the Commonwealth. However, this constraint on congressional power would not prohibit the Commonwealth from granting titles of nobility and its officers from receiving gifts, salaries, titles or offices from foreign powers.


ERIC SMITH
Assistant Attorney General