

NORTHERN MARIANAS CONSTITUTIONAL CONVENTION
HOUSE OF TAGA
SAIPAN, CM 96950

MEMORANDUM

Date: June 25, 1985

Legal Opinion No. 13

To Attorney General

From Chairman, Committee on Governmental Institutions

Subject Proposal No. 38-85

Issue raised: Should there be a constitutional provision establishing a clerk of court on Tinian and Rota.

Please provide your recommendations and rationale.

Juan T. Vizana, Esq.

xc: Con-Con President



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REXFORD C. KOSACK
ATTORNEY GENERAL

TO: Chairman, Committee on
Governmental Institutions
Second Constitution Convention

DATE: 6/25/85

FR: Attorney General

RE: Establishment of Clerk of Court for Tinian and Rota
Legal Opinion No. 13

You have asked our opinion whether there should be a constitutional provision establishing a clerk of court on Rota and Tinian. While we consider this to be a question of policy and not a legal question, it is our opinion that this issue is not of constitutional statute.

The Constitution provides for a Commonwealth trial court in Section 2 of Article IV. With respect to Rota and Tinian, the section provides only:

At least one full-time judge of the court shall be assigned to Rota and at least one full-time judge of the court shall be assigned to Tinian.

The Analysis provides:

The requirement that a full-time judge sit in Rota and Tinian does not mean that the judge has to spend full time in Rota and Tinian. This provision permits the court to establish regular sessions, such as one week per month or one week every two months, in which a full-time judge will sit in Rota and Tinian. Those judges could then spend the remainder of their available time hearing cases in Saipan.

Chairman, Committee on
Governmental Institutions

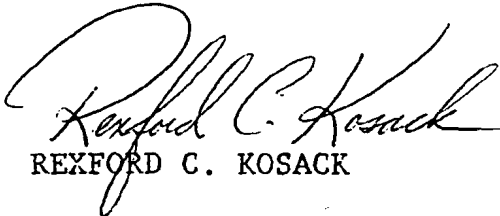
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The present practice is to have a judge who regularly sits in Saipan travel to Rota for a court session on the last Tuesday of every month and travel to Tinian for a court session on the second Tuesday of every month. The court sessions usually last for one or two days each. So, there is not a great deal of court business transacted on either island.

There presently is a full-time clerk of court on Rota and no clerk of court on Tinian. The policy question is whether the expense of a full-time clerk is justified for a part-time court. On the one hand, the presence of a clerk would be of great convenience to the community in receiving copies of legal papers, notary signatures, filing lawsuits and paying judgments. On the other hand, the expense to be paid for such a convenience might outweigh it.

In either event, we believe that this is a decision of legislative importance and not of constitutional stature. A constitutional requirement of a clerk of court may be avoided by flying a clerk over monthly for the calendar as is done for judges. The establishment of locations where a court sits is of constitutional significance, but ancillary problems of staffing seem best left to either the judges or the legislature.



REXFORD C. KOSACK

cc: President, Second Constitutional Convention