

SECOND CONSTITUTIONAL CONVENTION
of the
NORTHERN MARIANA ISLANDS
Convention Hall - House of Taga
Saipan, CN 96950

TWENTY-EIGHTH DAY

Monday, July 15, 1985

The Second Constitutional Convention of the Northern Mariana Islands was called to order at 1:27 p.m., Monday, July 15, 1985, in the Convention Hall - House of Taga, San Vicente, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Herman T. Guerrero, President, presided.

A moment of silent prayer or meditation was observed.

President H. Guerrero: Secretary Nabors, can you take the roll call?

Secretary Nabors: Thank you, Mr. President.

The Convention Secretary called the roll, and 23 delegates were present. Delegate Villagomez was absent.

Secretary Nabors: Mr. President, there are 23 delegates present.

President H. Guerrero: We have a majority and a quorum to conduct the Order of Business. Floor Leader Lizama?

ADOPTION OF JOURNALS

Floor Leader Lizama: Mr. Chairman, I move that we adopt the Twenty-Seventh Day's Summary Journal.

Delegate Mendiola seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt the Twenty-Seventh Day's Summary Journal for July 14, 1985. Discussions?

There being no discussion, the motion to adopt the Twenty-Seventh Day Summary Journal was carried by voice vote.

(At this point Delegate Villagomez took his seat.)

COMMUNICATIONS

None

COMMITTEE REPORTS/RECOMMENDATIONS

President H. Guerrero: Chairman Lizama?

Chairman Lizama: Mr. President, the Committee on Governmental Institutions has nothing to submit.

President H. Guerrero: Chairman Guerrero?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Chairman DL. Guerrero: Yes, likewise, your Committee on Finance and Other Matters at this time has nothing to report in writing.

President H. Guerrero: Chairman Manglona?

Chairman Manglona: Likewise, Mr. President, your Committee on Local Government has nothing to report.

President H. Guerrero: Chairman King?

Chairman King: Your Committee on Personal Rights and Natural Resources has nothing to report, Mr. Chairman.

President H. Guerrero: Thank you. There is no Introduction and First Reading at this time so we'll move on to Second and Final Reading.

INTRODUCTION, FIRST READING AND REFERRAL OF PROPOSALS

None

SECOND AND FINAL READING

Committee Recommendation No. 19: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND ARTICLE XII, SECTION 3, TO ALLOW THE SALE AND LONG-TERM LEASE OF BUILDING ABOVE THE FIRST FLOOR.", for adoption on Second and Final Reading.

Committee Recommendation No. 20: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND SECTION 2 OF ARTICLE XII OF THE NORTHERN MARIANAS CONSTITUTION RELATING TO ACQUISITION.", for adoption on Second and Final Reading.

Committee Recommendation No. 23: "A PROPOSED CONSTITUTIONAL AMENDMENT TO ADD A NEW SECTION TO ARTICLE X, TO PROHIBIT THE IMPOSITION OR CERTAIN REAL PROPERTY TAXES UNLESS APPROVED BY THREE-FOURTHS OF THE VOTES CAST IN A REFERENDUM.", for adoption on Second and Final Reading.

President H. Guerrero: Secretary Nabors?

Secretary Nabors: Thank you. If there is no objection, I would like to please move that we defer action on Committee Recommendations 19 and 20.

Delegate Torres seconded the motion.

President H. Guerrero: Also, in view of the legal opinion that has just came out and is being duplicated for Committee Recommendation No. 36, we'll defer that until we get the legal opinion, if there is no objection. We just received a legal opinion for that one, so copies are being made to be passed out to all the members. And we'll entertain that once that thing is finished, or put it in tomorrow's calendar. So if there's no objection, we will start with Committee Recommendation No. 23. Secretary Nabors, can you read Committee Recommendation No. 23 please?

At this point, Secretary Nabors read Committee Recommendation No. 23 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 23

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To add a new section to Article X, to prohibit the imposition of certain real property taxes unless approved by three-fourths of the votes cast in a referendum."

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, a new section is added to Article X to read:

"Section _____. Real Property Taxes. No real property tax shall be levied upon the owners of any unimproved, agricultural, or single family residential real property, unless approved by three-fourths of the votes cast in a referendum."

President H. Guerrero: Any motion to adopt it?

Delegate DL. Guerrero: I so move to adopt it on Second and Final Reading.

Delegate Mendiola seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 23. Delegate Pangelinan?

Delegate Pangelinan: Mr. President, I would like to make an amendment to the proposed Committee Recommendation No. 23 to read: "No tax may be levied upon any unimproved agricultural, or owner-occupied single family residential real property, unless approved by three-fourths of the votes cast in a referendum conducted in the jurisdiction to which the tax will apply." It's the same, Mr. President, only I struck out "real property" which is repetitious and "shall" is changed to "may be levied upon the owners of". The "owners of" are struck out, and you add "owner-occupied single family residential". The addition is "conducted in the jurisdiction to which the tax will apply".

President H. Guerrero: Point of order. Are you proposing this as an amendment? I have not received a second yet.

Floor Leader Lizama: I second to that motion.

Secretary Nabors: Mr. President?

President H. Guerrero: I believe Delegate Pangelinan still has the floor.

Secretary Nabors: It's seconded, so it's the property of the floor now.

Delegate King: Point of order, Mr. President.

President H. Guerrero: State your point, Delegate King.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate King: I think you just passed out the memorandum to each delegate which states that no amendment to any committee recommendation shall be considered unless it is put in writing.

President H. Guerrero: Isn't that what you have in front of you, Delegate King?

Delegate King: No.

↓ Delegate Mendiola: The amendment is being passed out.

— Delegate King: So I believe that before any motion can be made, first we must see that the written amendment is on the desk.

Delegate Pangelinan: It was supposed to have been passed out before I made the amendment.

President H. Guerrero: State your point, Delegate Guerrero.

Delegate DL. Guerrero: That is exactly what Delegate Pangelinan has just said.

President H. Guerrero: The Chair apologize for the slowness of the Page. Delegate Villagomez?

Delegate Villagomez: I would like to ask the Convention if we could be a little lenient when it comes to changing words just so that we have a more grammatical proposal or to correct misspellings and not consider that as substantive amendments, and perhaps, amendments which are actually going to just correct the language should not be considered a formal amendment but just a request for correction.

Delegate Pangelinan: This is not...

Delegate Villagomez: Yes, I understand; I understand. This is just so that we don't encounter this problem in the future. For example, we are using again the word "referendum" when we mean "initiative". That kind of a change is really not substantive; it's just correction of words to be correct. You use a referendum to change an existing law, you use an initiative to establish a non-existing law, and so that kind of change should be just to correct the language to be correct rather than to change the proposed amendment.

President H. Guerrero: Does any of the delegates have any objection to the recommendation by Delegate Villagomez? Delegate Nabors?

Secretary Nabors: Mr. President, I have an objection because I do not agree. I think the referendum in this instance is proper.

Delegate Villagomez: I was using that just as an example.

Secretary Nabors: But what are we going to do?

Delegate Pangelinan: I did not make a change on the "referendum"; that was on the original proposal.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Secretary Nabors: Not the initiative, it should be referendum.

Delegate Pangelinan: My substantial change here is to add "conducted in the jurisdiction to which the tax would apply" and I would explain that later.

President H. Guerrero: Do you have any objection to that? Is that what are you referring to, Delegate Villagomez?

Delegate Villagomez: I'm sorry, I didn't catch that.

President H. Guerrero: I think they are talking about the term "referendum" on the proposed amendment for No. 23. Were you referring to that one, or just the overall?

Delegate Villagomez: Just the overall. That's probably a bad example but I used that as an example only. A better example would be to use "may" instead of "shall". We shouldn't consider that as a substantive amendment, and we should allow it on the floor without a written proposal to amend. Changing of or correction of grammar or spelling, things like that should be allowed without written motion.

Delegate Pangelinan: I understand that, but if we are going to make an amendment I might as well correct the whole thing.

President H. Guerrero: Delegate Villagomez does have a point and, you know, if we catch it, let's bring it up. I think it's also important that eventually whatever passes Second and Final Reading will be brought up to the floor as a package, so corrections will be made in terms of spelling or typo errors, or whatever.

Secretary Nabors: Motion to end debate.

Floor Leader Lizama seconded, and the motion was carried by voice vote. Delegate Villagomez voted "no".

President H. Guerrero: We're back to the main motion.

Floor Leader Lizama: Point of information, Mr. president.

President H. Guerrero: Yes, Delegate Lizama.

Floor Leader Lizama: On a second thought, did you approve the recommendation or suggestion that was made by Delegate Villagomez that we should be lenient in changing the words? No objection to that? Okay, I was just wondering if the word "jurisdiction" is more proper than to use the word "senatorial district".

Delegate Villagomez: I would go along with that. Also the words "to which" should probably be better if we say "where" -- "senatorial district where the tax will apply" instead of "to which". This is just to make it sounds more grammatical or more appropriate.

Delegate Pangelinan: No; "to which" is correct.

Delegate Villagomez: Actually, we're talking about where the tax will be levied and not where the tax is applied.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: If there is no objection to changing "jurisdiction" to "senatorial district", so ordered. So what do you decide, in which, to which, or where?

Secretary Nabors: I think "in which" is more clear.

Floor Leader Lizama: I'll go along with that, Mr. President.

The motion to adopt the proposed amendment offered by Delegate Pangelinane to Committee Recommendation No. 23 was carried by voice vote. Delegate Villagomez voted "no".

President H. Guerrero: So we're now on Committee Recommendation No. 23. Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I move for the previous question.

Delegate Guerrero seconded the motion.

Secretary Nabors: Is there supposed to be a comma after "unimproved"?

Delegate Pangelinan: No.

Secretary Nabors: Why?

Delegate Pangelinan: That's one word.

Secretary Nabors: Unimproved agricultural?

Floor Leader Lizama: No; no comma there.

Delegate Pangelinan: No, because it doesn't have to be an agricultural to be improved.

Secretary Nabors: Oh, any agricultural...

Delegate Mafnas: Unimproved land is not necessarily to be agricultural.

Delegate Pangelinan: Any land that's unimproved.

President H. Guerrero: As well as agricultural land.

Delegate Pangelinan: There are two different things.

Secretary Nabors: I see.

President H. Guerrero: You might own a piece of land that's not agricultural and unimproved. See?

Delegate Torres: Point of information.

President H. Guerrero: State your point, Delegate Torres.

Delegate Torres: Yes, I'd like to relay this to Delegate Pangelinan. Why are we including "unimproved"? Could you enlighten me on the rationale for this?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Pangelinan: That was the original proposed amendment. We include "unimproved" because we felt that most of our people here own two or three parcels of land and they should not be taxed on that land if it's not improved. When you improve the land, if you have a single dwelling family housing, we don't want to tax you on that one also. But if you have additional land that you want to improve, by improving it, I'm sure that you are going into a money-making venture; and therefore, the Legislature has that option to tax you on that developed business that you improve on the land.

President H. Guerrero: Delegate Villagomez?

Delegate Villagomez: Thank you. The first part of the amendment talks about levying of tax and the last part is talking about applying of tax. My suggestion is to be consistent. Instead of saying at the end "in the senatorial district to which the tax will apply" to say "in the senatorial district where the tax will be levied" because we're talking about levying tax in the first part of the sentence and in the latter part we're talking about applying tax. So to be consistent in the language, we say "levying tax" the first part, we'll also say in the last part "in the senatorial district where the tax will be levied." That's just a suggestion. And also, I've asked the Assistant Attorney General to look at this to see if he can help us with the language. I have no problem with the proposed language changes on the proposed amendment.

President H. Guerrero: Delegate Guerrero?

Delegate DL. Guerrero: May I ask what is the intent of this amendment again? By amending it to put in a senatorial district, is it the intent here actually that we are going to make it as a Commonwealth-wide rather than to be a senatorial district by itself? I'd like to ask whether the delegates here from Rota or the delegates from Tinian are anticipating any future taxes, in other words, to concur with this kind of amendment?

President H. Guerrero: Is there any of the delegations from Rota or Tinian willing to answer?

Secretary Nabors: Thank you. We don't anticipate any tax as long as Uncle Sam keeps the money coming.

Delegate Pangelinan: If I may answer your question. The intent of this amendment is that the senatorial district may legislate on local matters. What we're saying is that if they felt that should they need to tax the people of Rota or Tinian, then they have that option. But it would apply only to Rota or Tinian, or Saipan, for that matter.

President H. Guerrero: Delegate Torres?

Delegate Torres: Yes. Delegate Pangelinan, wouldn't this hamper the ability of the government to generate revenues to benefit the entire Commonwealth and not to penalize one district for the benefit of those not taxed?

Delegate Pangelinan: I believe Delegate Villanueva had the answer to that during the first discussion.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Villanueva: What was the question?

Delegate Torres: My concern is for the central government. Wouldn't this proposal hamper the central government's ability to generate enough revenues to benefit the entire Commonwealth and not to penalize one district for the benefit of those districts or district not taxed?

Delegate Villanueva: It is not going to penalize anybody. According to the proposed amendment if Rota wants to tax their people on real property, they can. What the concern is this, that Tinian doesn't want Saipan or Rota to be making decision for Tinian. This is not the original intent of the proposal. I just read this amendment. The original intent of the proposal is to restrict the Legislature as well as the Executive Branch from imposing real property tax to the Commonwealth people. And the reason behind this is so that our people who are not ready to develop their property and who are not ready to be taxed because their property is not developed can have their properties, you know, available for their children, grandchildren and great grandchildren and not to be forced to move from the beach to the mountain and then up to the air. This is the original intention of the proposal. I accept the change from jurisdiction to senatorial district for the main reason that most real property tax in the United States are levied by counties. And because we are looking at the senatorial districts as entities and this one of the items that they might consider generating revenue from, then I'm in agreement with the proposed amendment, including senatorial district. Thank you, Mr. President.

President H. Guerrero: I have a question. Delegate Pangelinan, if Saipan decided to levy the tax, does the money or fund collected stays on Saipan, or does it apply to Commonwealth-wide?

Delegate Villanueva: No.

Delegate Pangelinan: If it's a local legislation.

President H. Guerrero: So this is a local law.

Delegate Pangelinan: Right.

President H. Guerrero: I see. Delegate Mafnas?

Delegate Mafnas: We have a problem if that will be the case. No, I guess the funds collected, if it's a local tax, it will be expended by the delegation, locally.

Delegate Villanueva: Yes.

Delegate Mafnas: Then I have no problem.

President H. Guerrero: Delegate Mendiola?

Delegate Mendiola: I got a question to the author of this. Would this give us the authority, like the Municipality of Tinian to have the authority to tax the U.S. military then?

Delegate Pangelinan: You cannot tax military property.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Mendiola: If that's the case, I don't agree with the amendment.

President H. Guerrero: Delegate Torres?

Delegate Torres: Mr. President, I think my concern hasn't been thoroughly addressed. May I continue?

President H. Guerrero: Please, go on.

Delegate Torres: The reason that I raised this friendly concern is that I fear that five years down the road the State Government may need to levy taxes across the board to rescue our ailing retirement fund, and we all know that our ailing retirement fund is benefitting not only Saipan but Tinian and Rota as well. So my question remains the fact that we are going to allow each district to decide this issue, wouldn't this in a way, hamper -- in a way, hamper the ability of the central government, the State Government, to raise emergency funding to benefit the entire Commonwealth and not just raise these necessary funds in one senatorial district only that would benefit the entire Commonwealth?

President H. Guerrero: Are you responding to Delegate Torres' question, Delegate Inos?

Delegate Inos: I think so. I don't know how he will take my response but I'll try. In trying to understand what he is trying to get across, I think Delegate Torres is concerned that, let's say, we will tax a certain senatorial district, like Saipan, we will apply the real property tax which will benefit Rota and Tinian. I think that's one of your concerns. Isn't it, Delegate Torres?

Delegate Torres: Let's say that we tax only Saipan and Rota and Tinian rejected the tax.

Delegate Inos: Okay. To my understanding on this amendment, any local matters when it comes to local taxing, I think that particular funds remain within that particular senatorial district. I don't think that it will go to Rota if you so decide here on Saipan that you need to address property tax that you need that additional funds to, let's say, build up your road here, I think that that should remain. And I think that the proposal, and as far as my understanding on local tax levying, that that will remain a local matter. Another concern that you have which is valid in terms of trying to close the doors in trying to levy additional taxes for additional funds, I think that there are other areas in which our government can tap. For example, we are concerned about the retirement, we are concerned about aliens using our facilities, maybe our government should be looking at other areas of taxing. What the committee is saying is that we want to protect the individual owners of property that are unimproved, that have no funds to pay if the government should decide to tax this particular people. I don't know if I'm responding to your question appropriately, Delegate Torres.

Secretary Nabors: Point of information.

President H. Guerrero: State your point, Delegate Nabors.

Secretary Nabors: Did I understand my colleague to say that we are concerned with taxing the aliens for using our island?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Inos: Point of information. That is an example I'm giving. What we're trying to do in this amendment is to protect the local owners of property. And that's just it. We're not closing doors on any other areas in which we can levy taxes, except for this particular issue.

Secretary Nabors: No, but my question is, is it worded in such a way where the incidence of the tax will fall on resorts and tourists development only?

Delegate Inos: I don't.... Well, the intent is to not tax or levy tax on owners of any unimproved agricultural or single residential.

Delegate Pangelinan: Yes. My answer is "yes" to your question.

Secretary Nabors: Thank you.

Delegate Manqlona: Mr. President?

President H. Guerrero: Are you answering the question?

Delegate Manqlona: I'm answering Delegate Torres' concern.

President H. Guerrero: Go ahead.

Delegate Manqlona: Okay. To answer Delegate Torres' question directly and in a few words, yes, he is correct. The Commonwealth Government cannot use tax on property for the benefit of the whole Commonwealth-wide. You can only tax this will now therefore becomes a local matter. So, yes, the Commonwealth cannot use real estate tax for Commonwealth-wide benefit.

President H. Guerrero: Is your question answered, Delegate Torres?

Delegate Torres: Let me just pose one more question and that, I guess, will be satisfied. Let's say that the Commonwealth Government decided to impose additional taxes on -- since real property is removed here, so I assume this is all sorts of taxes.

Delegate Villanueva: No, no. This is for real property.

Delegate Pangelinan: No, the title says, real property tax, and that is just it.

Delegate Torres: So this still remains a land tax?

President H. Guerrero: Yes.

Delegate Torres: Okay. Let's say that the Legislature again decided to impose extra taxes and the people in Saipan agreed to this extra tax so that we can rescue other ailing programs. And then, you know, unfortunately and I don't want to presume that the people in Rota and Tinian will reject it. But let's say for hypothetical that it was rejected in Rota and Tinian. That's really my concern. Aren't we, in a way, hampering the ability of the state government?

President H. Guerrero: Delegate Villanueva?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Villanueva: You know, right now in any referendum or initiative, two senatorial districts have to approve any in order for the government to make it to be accepted. That's written in our Constitution. Even on the proposed amendments to this Constitution, there are 14,000 people, let's say, in Saipan; 1,000 in Rota; and 1,000 in Tinian. If they disapprove it -- if two-thirds of their people or three-fourths, I think, of their people disapprove the proposed amendment to this Constitution, even if the people in Saipan approves it, it's still disapproved because it's written in the law.

Delegate Torres: According to the proposed amendment, that's not correct.

Delegate Villanueva: I'm talking about what is present in the Constitution now.

Delegate Torres: I'm referring to the proposed amendment.

Delegate Villanueva: You're referring to the people in Rota and Tinian not approving and people in Saipan are approving. This is applicable to almost anything that the Government of the Northern Marianas would like to do has to be approved by two-thirds.

Delegate Pangelinan: Let me explain the proposed amendment. I think I understand Delegate Torres' concern. First of all, we just don't raise taxes for the sake of raising taxes and giving more money to the government. If we're going to raise property tax, we would have to justify that. If Saipan felt that maybe we need a water catchment for all of its residents and there is no other way of raising taxes or that money to raise the water catchment, maybe the people would vote to have a property tax to support that water catchment project. And maybe the water catchment project is a bad example because it is a one-time project.

Delegate Torres: I agree with you on that point.

Delegate Pangelinan: Tinian might say, we don't want a water catchment project and therefore, we don't want to be taxed on property because it doesn't apply to us. This is exactly what this proposed amendment is saying is that let each senatorial district decide on its local matter whether they need such taxes to be imposed.

Delegate Torres: But that's not my question. My question is, okay, let me reiterate it again and hopefully this time we'll have a meeting of the mind. Retirement fund, okay, as an example. Let's say that the people in Saipan felt that we need extra taxes to generate extra revenues to rescue our retirement fund. Okay? And only the people in Saipan approved this extra tax. Okay? Wouldn't this proposed amendment then make it difficult for our central government to generate funding to rescue a state-wide program and not to penalize -- maybe I'm using the wrong term -- one district which fortunately perhaps approved that extra tax to rescue a state-wide program?

President H. Guerrero: Delegate Torres, I think the issue at hand is -- this is a local law. If you want this local law to be applicable Commonwealth-wide, the answer to your question is, it cannot be made applicable to a program that covers the entire Commonwealth-wide. I can

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

only be used for local matters, like road improvement probably, things that of nature that can only be used on Saipan. It cannot apply to Rota and Tinian.

Delegate Torres: I agree, Mr. President, with you but the question still remains unanswered. Wouldn't this hamper the ability of the government?

President H. Guerrero: It does. Did I answer your question?

Delegate Torres: Yes.

President H. Guerrero: Thank you. Delegate Ogumoro, you had your hand up.

Delegate Ogumoro: Yes; thank you, Mr. President. I just would like to know how much revenue is estimated to be realized from the real property taxes. Has any of the witnesses given us any indication?

Floor Leader Lizama: Point of order, Mr. President.

President H. Guerrero: State your point, Delegate Lizama.

Floor Leader Lizama: Mr. President, we're talking about the amendment right now. We're not talking about the essence of the original amendment because in the original amendment it's talking about the referendum as a general law to be considered. In the proposed amendment...

Delegate Ogumoro: I think we have already disposed of that amendment and now we are discussing the Committee Recommendation. Aren't we?

President H. Guerrero: We're talking on the proposed amendment.

Delegate Ogumoro: On the proposed amendment still. Anyway, I think that I still am in order, Mr. President. I would like to find out how much is estimated to be realized by the government from the real property tax.

President H. Guerrero: Delegate Villanueva?

Delegate Villanueva: Mr. President, right now we don't have an assessed value of individual property in the Northern Marianas. But let's just say that we based ourselves on \$10 per square meter and, let's say, the assessed valuation is 10 cents per \$1,000. That would be a lot to an owner of 10,000 square meters unimproved property. The actual figure -- I don't have calculator, but it's a lot, and I've seen this. And I want to keep repeating that I put in this proposal so that those people who are living in the beach can still stay at the beach and not move to the mountain and then move to the air. But as far as the total amount, right now we don't know how we are going to assess the tax in case they want to tax the people to bail out the retirement program. And since this proposed amendment is to give the senatorial district the right to decide if they want to be taxed, I think it's going to be even worst trying to figure out how much money we are going to generate from this.

President H. Guerrero: Delegate Ogumoro, are you finished?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Oqumoro: So if I understand the amendment correctly, all real property taxes not inclusive of the ones mentioned in the amendment would stay with the senatorial district in which that tax is levied.

Delegate Villanueva: Yes.

Delegate Oqumoro: Thank you. I'll yield for now.

President H. Guerrero: I call first on Delegate Cing.

Delegate Cing: Thank you, Mr. President. I just want to respond to Delegate Torres, but what I was about to say you've already done it. So thank you anyway.

(Laughter)

President H. Guerrero: Any time, Delegate Cing, if I can be of any help. Delegate Nabors?

Secretary Nabors: Thank you, Mr. President. The responses to the last two questions are very interesting. That is to say that to levy this tax in Saipan and Tinian and Rota could not benefit, I dare you.

Delegate Manglona: Point of information. Will this include gambling in Tinian?

Secretary Nabors: Yes. I dare you to attempt to collect taxes from the Hyatt Hotel that sits on public land and not share it with all residents of the Commonwealth. I dare you.

Delegate Mafnas: I agree with you.

Delegate Pangelinan: But that's not included in this proposal.

Secretary Nabors: It certainly is. You just said it was.

Delegate Pangelinan: No; the Legislature will tax the resort.

Delegate Mafnas: Mr. President, that's improved property, so it's not included here.

Delegate Pangelinan: It's not.

President H. Guerrero: Please read the amendment. It says, "unimproved agricultural or owner-occupied single family residential real property."

Secretary Nabors: Which means inferentially everything that's improved is taxable, i.e. the Hyatt Hotel. So you're not going to share that revenue on public property with all residents of the Commonwealth? No way.

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. President, I thought I was in agreement with Delegate Nabors but after giving it a second thought, I think I disagree with Delegate Nabors. The amendment is simply suggesting that unimproved agricultural or owner-occupied single family residential real property

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

will not be taxed unless sufficient votes are casted in a general election to levy such a tax in a senatorial district. That's what the amendment is. Now with respect to improved properties in the Commonwealth, be it Saipan, Rota or Tinian, those improved properties are not involved in this amendment. Well, the Legislature could come up with a general law providing for taxation or the taxing of those real properties, and that's a different animal, Delegate Nabors.

Delegate Manglona: Point of clarification. So I assume that there will be no more future Hyatt Hotels so-called build on public land. I assume no more public land will be leased for future improved land?

Floor Leader Lizama: Mr. President, if I may answer that. I think, Delegate Manglona, you are out of order.

(Laughter)

Secretary Nabors: Now that my question has been answered, may I please address the recommendation? I see serious problems with this proposal if the Legislature is not involved and I believe that we're going to have to go back to our reliable stock and trade language as provided by law for the following reasons: On what basis would the tax be levied? What tax base will be used? Would appraisals be required? Who will pay for the appraisals and the administration? And if I own 5 hectares of land that's to be taxed and my neighbor owns a half hectare, what would be our relative tax liability? As I see it, by saying that no real property tax may be levied on certain categories of properties, it says inferentially that real property taxes may be levied on other categories of properties. If that's being the case, it seems to me that we need to include our stock and trade language.

Delegate Pangelinan: Delegate Nabors, at the present time the Legislature has that blanket authority to tax us on property. All we're saying here is that should the Legislature impose real property tax, we are at least protecting the single owner residents, the unimproved land and the agricultural land. There is nothing right now that prevents the Legislature from taxing any of us on real property tax. I think we are thinking of the reverse.

President H. Guerrero: Let me recognize first Delegate Villagomez.

Delegate Villagome: Thank you. (in Chamorro)

President H. Guerrero: Delegate Nabors?

Secretary Nabors: Point of privilege. Could I ask the Stenographer to read back the statement that colleague Villagomez has just made? The translated version? Or if you want to bring a translator over here and put him down here beside me, because I believe you are

Delegate King: Point of information.

Secretary Nabors: I got the right to know what is being said here and I demand my right.

Delegate Mafnas: Under what rules, Mr. President?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: May I ask Delegate Nabors whether he voted on the proposed constitutional amendment making it official to three languages? Didn't you vote on that yesterday?

Secretary Nabors: No.

Floor Leader Lizama: Oh, okay.

Delegate Villagomez: Mr. President, I have a question for Mr. Nabors.

Secretary Nabors: In Chamorro or English?

Delegate Villagomez: That's my choice. I'd like to find out from Mr. Nabors if it was he who submitted the proposal, the delegate proposal to preserve and to encourage the study of the Chamorro and Carolinian language and culture.

Secretary Nabors: That was filed by your committee.

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Yes, I think Delegate Villagomez owes Delegate Nabors an apology. I would like to state what Delegate Villagomez has just stated and I think he wasn't really lying. He was just informing the delegates that -- he was not lying, because what Delegate Villagomez was explaining was exactly the same explanation that he was making earlier. And I raised my hand to reiterate further that I think also you were a little bit maybe incorrect in assuming that there's a need to put in this proposed constitutional amendment a language stating how this is going to be carried out for the reason that as you well know, Delegate Nabors, in a situation where we have to deal with it in a referendum, that in a referendum it would be necessary to put out the full text of that particular law and that particular law would be well defined. Do you understand that, Delegate Nabors?

President H. Guerrero: Delegate Nabors, according to Rule 69 which we adopted by the Convention, English, Chamorro or Carolinian may be used in any proceeding of the Convention or in any committee except that any written submission of proposals shall be in English.

Secretary Nabors: No question, but put me a translator over here and that's all I say.

Delegate Mafnas: We don't have budget.

Delegate King: Point of information, Mr. President.

President H. Guerrero: Delegate King?

Delegate King: I think that Delegate Nabors should cool down because we have three other delegates that aren't Chamorro here. I believe that we don't want our delegates to be intruded or to be insulted, however, such explanation is very good and acceptable by the three delegates. So I believe that anything that brings up to the Convention that would insult

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

our colleague, I believe that it would not be appropriate. But we accept -- I repeat, we accept the explanation delivered in Chamorro by Delegate Villagomez. And another thing, the Chamorro culture that we filed has been reconsidered by the GI Committee because that's included in the Education. So all of these are still in-line and I hope that Delegate Nabors should apologize to Delegate Villagomez because he has done nothing wrong.

Delegate Villagomez: Mr. President, I would like to request that Mr. Nabors identify exactly where I made the lie to the Convention. He called me a liar and said that I lied to the Convention when I spoke to it in Chamorro.

Floor Leader Lizama: Point of order, Mr. President.

President H. Guerrero: State your point.

Floor Leader Lizama: Mr. President, I don't think we should be dwelling on issues that are not relevant to this particular proposed amendment. If we're going to be discussing further, we should just simply concentrate on the amendment and not go into personal matters. I move that we end debate, Mr. President.

Delegate Mendiola seconded, and the motion was carried by voice vote.

President H. Guerrero: We need to vote on Committee Recommendation No. 23, as amended.

At this point, Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 23, as amended, on Second and Final Reading was voted on by a roll call vote, as follows:

YES: Delegates David Cing, Herman Guerrero, Lorenzo DL. Guerrero, Alonzo Igisomar, David Igitol, Rita Inos, Benusto Kaipat, Esteven King, Luis Limes, Juan Lizama, Jesus Mafnas, James Mendiola, Paul Manglona, Aniceto Mundo, William Nabors, Felicidad Ogumoro, Maria Pangelinan, Karl Reyes, Joaquin Tenorio, Francisco Tomokane, Ramon Villagomez, Ignacio Villanueva and Vincent Calvo. (23 votes)

ABSTAIN: Delegate William Torres. (1 vote)

And the motion was carried.

Secretary Nabors: Mr. President, I have 23 affirmative votes and one abstention.

President H. Guerrero: Committee Recommendation No. 23 passed by 24 votes.

Committee Recommendation No. 28: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND SECTION 9 OF ARTICLE I OF THE NORTHERN MARIANAS CONSTITUTION RELATING TO CLEAN AND HEALTHFUL ENVIRONMENT.", for adoption on Second and Final Reading.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Secretary Nabors, can you read Committee
Recommendation No. 28, please?

At this point, Secretary Nabors read Committee Recommendation No. 28
in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 28

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Section 9 of Article I of the Northern Marianas Constitution
relating to Clean and Healthful Environment.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Common-
wealth of the Northern Mariana Islands Constitution and Public Law No.
4-30, the Constitution of the Commonwealth of the Northern Mariana Islands
is amended as follows:

"I. Effective upon ratification, Section 9 of Article I is amended to
read:

"Section 9. Clean and Healthful Environment. Each person has the
right to clean and healthy public environment in all areas, including, but
not limited to land, air, and water. Harmful and unnecessary noise pollu-
tion and the storage of nuclear or radioactive material and the dumping or
storage of any type of nuclear waste are prohibited within the surface or
submerged lands and waters of the Northern Mariana Islands, except as
provided by law."

President H. Guerrero: Delegate King?

Delegate King: Thank you. I move for the adoption of Committee Recommen-
dation No. 28.

Floor Leader Lizama seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee
Recommendation No. 28. Discussions?

Delegate King: No discussion.

President H. Guerrero: If there's no discussion, going one, going twice,
roll call.

At this point Secretary Nabors called the roll, and the motion to
adopt Committee Recommendation No. 28 on Second and Final Reading was
voted on by a roll call vote, as follows:

YES: Delegates Vincent Calvo, David Cing, Herman Guerrero, Lorenzo
DL. Guerrero, Alonzo Igisomar, David Igitol, Rita Inos, Benusto
Kaipat, Esteven King, Luis Limes, Juan Lizama, Jesus Mafnas,
James Mendiola, Paul Manglona, Aniceto Mundo, William Nabors,
Felicidad Ogumoro, Maria Pangelinan, Karl Reyes, Joaquin
Tenorio, Francisco Tomokane, William Torres, Ramon Villagomez,
and Ignacio Villanueva. (24 votes)

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

And the motion was carried.

Secretary Nabors: Mr. President, I have 24 affirmative votes.

President H. Guerrero: Committee Recommendation No. 28 is passed unani-
mously.

Committee Recommendation No. 29: "A PROPOSED CONSTITUTIONAL AMENDMENT
TO AMEND ARTICLE XIV, SECTION 2 TO INCLUDE TWO OTHER UNINHABITED ISLANDS
TO BE PROTECTED AND PRESERVED.", for adoption on Second and Final Reading.

President H. Guerrero: Secretary Nabors, can you read Committee
Recommendation No. 29?

At this point Secretary Nabors read Committee Recommendation No. 29 in
its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 29.

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Article XIV, Section 2 to include two other uninhabited islands
to be protected and preserved.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Common-
wealth of the Northern Mariana Islands Constitution and Public Law No.
4-30, the Constitution of the Commonwealth of the Northern Mariana Islands
is amended as follows:

"I. Effective upon ratification, Section 2 of Article XIV is amended to
read:

"Section 2. Uninhabited Islands. The island of Managaha shall be
maintained as an uninhabited place and used only for cultural and recrea-
tional purposes. The islands of Maug, Uracas, Asuncion, Guguan and other
islands specified by law shall be maintained as uninhabited places and
used only for the preservation and protection of natural resources,
including but not limited to bird, wildlife and plant species."

Delegate Villagomez: Correction.

President H. Guerrero: Delegate Villagomez?

Delegate Villagomez: The correct pronunciation is not "Gu-an" but
"Gu-gu-an."

President H. Guerrero: I believe "Guan" is the proposed name for Guam.

Secretary Nabors: Let's be progressive.

President H. Guerrero: The Chair is ready to entertain its adoption.
Delegate Villagomez?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Villagomez: Mr. President, (in Chamorro)

Delegate King seconded the motion.

Delegate Manglona: I'd like to translate that in English for the benefit of one of the delegates in this Convention. Delegate Villagomez has just moved to adopt Committee Recommendation No. 29 and has been seconded.

(At this point, Secretary Nabors started calling the roll.)

President H. Guerrero: What are you doing?

Delegate Mafnas: Point of order, Mr. President.

President H. Guerrero: It's just been moved, it hasn't been seconded yet.

Secretary Nabors: Oh, I thought I heard "segundo" down there.

(Laughter)

Delegate Villagomez: But there's no discussion yet.

Delegate King: I made the second (segundo).

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 29. Discussions? Delegate Torres?

Delegate Torres: Mr. President, I fully support this proposed amendment if it will truly contribute to scientific knowledge and especially to the welfare of our people. Thank you.

President H. Guerrero: Delegate Manglona?

Delegate Manglona: Likewise, I will fully support this amendment if we feel that gambling would be a better source of funding for the Marianas rather than using one of these islands for development. Thank you.

Delegate Mafnas: I move to end debate.

Floor Leader Lizama seconded the motion.

President H. Guerrero: Any more discussions? Delegate Villanueva?

Delegate Villanueva: I support this committee recommendation with little reservation on the island of Maug.

President H. Guerrero: Delegate Guerrero?

Delegate DL. Guerrero: Yes. For the record, Mr. President, I'm also in support with the intent of this particular committee recommendation provided that the future generation of our people, of course, will be benefited out of the scientific studies as well as the aid that we expect forthcoming. I, for one, as I said it earlier during the First Reading, that I have a reservation mainly because the island could be more usable in a way that will develop the economy of our Commonwealth as a whole. But because of the preservations and to preserve those birds that are up

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

there because they are pretty unique and the only birds in this world in the Pacific that probably are up there on our islands. And I hope and still pray that those birds and those studies would develop or at least encourage our generation in the future. Thank you.

President H. Guerrero: Thank you, Delegate Guerrero.

Floor Leader Lizama: I move to end debate.

Delegate King seconded the motion.

President H. Guerrero: Any other discussions? If none, I'll entertain the move to end debate, and it was seconded.

There being no further discussion, the motion to end debate was carried by voice vote.

President H. Guerrero: Please take the roll call vote, Secretary Nabors.

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 29 on Second and Final Reading was voted on by a roll call vote, as follows:

YES: Delegates Vincent Calvo, David Cing, Herman Guerrero, Lorenzo DL. Guerrero, Alonzo Igisomar, David Igitol, Rita Inos, Benusto Kaipat, Esteven King, Luis Limes, Juan Lizama, Jesus Mafnas, Paul Manglona, Aniceto Mundo, William Nabors, Felicidad Ogumoro, Maria Pangelinan, Karl Reyes, Joaquin Tenorio, Francisco Tomokane, William Torres, Ramon Villagomez, and Ignacio Villanueva. (23 votes)

NO: Delegate James Mendiola. (1 vote)

And the motion was carried.

Secretary Nabors: Mr. President, I have 23 affirmative votes and one "no" vote.

President H. Guerrero: Committee Recommendation No. 29 is adopted by 23 votes and one "no" vote.

Floor Leader Lizama: Point of information, Mr. President. Last night when we were adopting on Second Reading some of the committee recommendations, we had to make some amendments, and I wonder whether it's appropriate at this time to mention that there is probably a need to make those amendments also. Are they finished? What we have now is not the one you have, so I'm just.... If you have done that already, then I yield.

President H. Guerrero: Delegate Lizama, for your information, a package has been passed out. Please look at that package; that's what have been discussed.

Floor Leader Lizama: I'm sorry, I didn't look at my package.

President H. Guerrero: Secretary Nabors, can you read Committee Recommendation No. 30?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Secretary Nabors: Thank you, Mr. President.

At this point, Secretary Nabors read Committee Recommendation No. 30 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 30

A PROPOSED CONSTITUTIONAL AMENDMENT

"To add a new Section 2 to Article XVII of the Northern Marianas Constitution relating to a Code of Ethics.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, a new Section 2 of Article XVII is amended to read:

"Section 2: Code of Ethics. The legislature shall adopt a Code of Ethics which shall apply to appointed and elected officers and employees of the Commonwealth and its political subdivisions, including members of boards, commissions, and other instrumentalities."

President H. Guerrero: Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I would like to move that Committee Recommendation No. 31 be amended. I have the written amendment passed out already to each delegates.

Delegate Inos: Point of information.

President H. Guerrero: State your point, Delegate Inos.

Delegate Inos: It's Committee Recommendation No. 30 not 31.

Floor Leader Lizama: I'm sorry; yes, it's No. 30. Actually this amendment is intended to accommodate the suggestion that was brought up.

President H. Guerrero: Point of clarification, or point of order. You made a motion; did anyone second it?

Delegate Nabors seconded the motion.

President H. Guerrero: It has been moved and seconded to substitute Committee Recommendation No. 30 with the proposed amendment. Discussions? Delegate Lizama?

The proposed amendment to COMMITTEE RECOMMENDATION NO. 30, offered by Delegate Lizama, reads as follows:

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"I. Effective upon ratification, A a new Section 2 to Article XVII is added to read:

"ARTICLE -----, CODE OF ETHICS

"Section 2 l. Code of Ethics. The legislature shall adopt enact a comprehensive Code of Ethics which shall apply to appointed and elected officers and employees of the Commonwealth and its political subdivisions, including members of boards, commissions, and other instrumentalities, with the exception of the judiciary. The Code of Ethics shall include a definition of proper conduct for members of the legislature with conflicts of interest and a definition of the proper scope of debate in the legislature, shall require disclosure of financial or personal interests sufficient to prevent conflicts of interest in the performance of official duties, shall define the offense or corrupt solicitation of public officials, and shall provide for punishment of offenses by fine and imprisonment.

"II. Effective upon ratification, Section 15 of Article II is amended to read:

"Section 15. Conduct of Members. A member of the legislature who has a financial or personal interest in a bill before the legislature shall disclose that interest and may not debate on or vote on the bill.

"III. Effective upon ratification, Section 6 of Article III is amended to read:

"Section 6. Other Government Employment. The governor or lieutenant governor may not serve in another Commonwealth position or receive compensation for performance of official duties or from any governmental body except as provided by Section 5."

Floor Leader Lizama: Mr. President, this is a friendly amendment and this is to accommodate the concern which was a very appropriate concern brought up during the discussions of this committee recommendation, the concern that was brought up by Delegate Tenorio. And this will attempt to integrate the ethics provisions of Article II, Section 15, and Article III, Section 6, and they will be placed upon ratification of this proposed committee recommendation under one Article. I think it's in line with what was being discussed during the discussions of this committee recommendation on First Reading.

President H. Guerrero: Delegate Mendiola?

Delegate Mendiola: Thank you, Mr. President. Would this cover on the Analysis of the Constitution once we adopt the original Code of Ethics--Recommendation No. 30?

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: I didn't quite understand the question. Would this be covered under the Analysis?

Delegate Mendiola: Would this be in the Analysis? You underlined so many things here. Would it be more proper to put it under the Analysis?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Floor Leader Lizama: No. This will spell out the true intent of this committee recommendation, if you read it carefully.

Delegate Mendiola: Yes, but by just mentioning Code of Ethics, this will cover the whole -- that's the definition of Code of Ethics.

President H. Guerrero: Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I will yield for now. Okay.

Delegate Cing: I think this is a Code of Ethics that includes the dictionary as well.

(Laughter)

Delegate DL. Guerrero: Point of information.

President H. Guerrero: Delegate Guerrero, state your point.

Delegate DL. Guerrero: Yes, Mr. President, I think basically the proposed amendment to the committee recommendation is to include the concerns that were raised during the discussions of its First Reading regarding Article II and Article III of which Article II deals with the Legislature and Article III the Executive Branch to be consistent with the intent.

Floor Leader Lizama: That's correct.

President H. Guerrero: Delegate Torres?

Delegate Torres: Mr. President, I am pretty concerned and I'm quite disturbed that this proposed amendment to the principal amendment excludes one branch of government which is the Judicial Branch. I don't understand this. Could I be enlightened on this?

President H. Guerrero: Delegate Lizama, can you answer that?

Floor Leader Lizama: Mr. President, if maybe Delegate Nabors or Delegate Villagomez would help me out on this subject. I think there is a Code of Ethics for judges as well as, of course, attorneys and I'm bound to the Code of Ethics for lawyers. So we have our own ethical considerations.

(At his point, President Guerrero was excused and Delegate Pangelinan took over the Chair.)

Delegate Villagomez: Madame Chairperson?

Presiding Officer Pangelinan: Yes, Delegate Villagomez?

Delegate Villagomez: (in Chamorro)

Presiding Officer Pangelinan: Does that answer your question, Delegate Torres?

Delegate Torres: Not quite, because I feel that if we're going to make an exception and granted that the judges and the lawyers have their own code, Professionals' Code of Ethics....

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Presiding Officer Pangelinan: The Legislature approved that Code of Ethics.

Delegate Torres: Okay, I'm not finished. Then wouldn't it be proper also for the Civil Service Commission to have its own Code of Ethics and submit it to the Legislature for its approval?

Presiding Officer Pangelinan: Delegate Mafnas?

Delegate Mafnas: Yes, we do have our Code of Ethics and it is effective. It was approved through the Commonwealth Registrar Procedure as required by Public Law 1-9, as amended.

Presiding Officer Pangelinan: Delegate King?

Delegate King: Thank you, Madame Chairperson. (in Chamorro)

Presiding Officer Pangelinan: Delegate Lizama?

Floor Leader Lizama: Madame Acting President, I think that Delegate King is expressing his personal anger and I think I will not withdraw my motion.

Presiding Officer Pangelinan: Delegate Inos?

Delegate Inos: Thank you.

Floor Leader Lizama: Just a moment, Madame Acting President. I have to say this that we've been seeing a lot of commotions in this Convention. I don't think that we should be acting as children; we should act as adults in here.

Presiding Officer Pangelinan: Please just respond to Delegate King's official question. Delegate Inos?

Delegate Inos: Thank you, Madame Acting President. I have several concerns on this friendly amendment as was stated earlier. I don't have any problem with the first sentence including the exception of the judiciary branch; however, I notice that the amendment also included Section 15 of Article II and part of the language on the first section was the language that you can find already under Section 15 of Article II. So I just don't see the rationale for having the Legislature enact a comprehensive Code of Ethics that will include also the boards and commissions and then going further to fully define the Legislative Code of Ethics. I think that if the intent is to really define the Legislative Code of Ethics or Code of Conduct, then I would push not to repeal Section 15 and go ahead and take the amended Section 1 and put it back down to Section 2 of this proposed amendment. Because at this time what I'm seeing, I'm seeing that the Legislature shall enact a comprehensive Code of Ethics for everybody, at the same time, it's furthering this provision by going in detail as to what the Legislature should do in what I see here as House Rules or Legislative Rules of Conduct. That is my only concern. I have no problems with the first sentence, however, I do have some reservations with the other sentences furthering on.

Presiding Officer Pangelinan: Any more discussions on the amendment? Delegate Lizama?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Floor Leader Lizama: Thank you, Madame President. I would like to ask the support of the delegates to support this amendment and I think we will all agree that we want to see our legislators be honest and to abide to the highest standard of integrity -- honesty, I should say. Now I realize that there have been several concerns regarding judiciary. Now with respect to judiciary, from my own limited experience as Chairman of the Ethics Committee in the past two years, I should say that the Ethics Committee that was established by the Commonwealth Trial Court has been doing a lot of implementation in the court of responsibility that the court puts out. Now, in the past seven years, we've never seen any investigation of an ethical concern in the Legislature or in any government departments. I think it's about -- I'm going to use the words that are frequently used by Delegate Guerrero -- it's about high time that we should make it known that it is very important in our government system to abide to the fullest extent to ethics concerns and we've been very reluctant or unwilling to rock the boat. And I think by providing this provision in our Constitution, maybe this is the beginning of that rocking of the boat. Let's rock the boat so that our government would have an honest government.

Delegate Torres: Point of information.

Presiding Officer Pangelinan: State your point, Delegate Torres.

Delegate Torres: Delegate Lizama, okay, so we're excluding lawyers, what about doctors?

Floor Leader Lizama: Well, if I may answer that. The doctors also have their own Code of Ethics. It's not put out by the court but I know that they have a professional responsibility as well. Now, with respect to doctors who work for the government, they're going to be bound also by whatever the Legislature will be putting out. So this will not exclude the doctors. This will not also exclude lawyers, especially, like myself who works for the Marianas Public Land Corporation. Now, suppose that an investor comes to the Marianas Public Land Corporation and he wants to submit a land lease application. Now, as counsel for the Marianas Public Land Corporation, I would be bound to whatever ethical considerations that the Legislature will be putting out in addition to the ethical considerations that the court has already put out. Now, I am bound to that Code of Conduct that the Judiciary has put out because, otherwise, I will lose my license. And in fact, for your information, one lawyer has been investigated and there will be an appeal, there will be a case by three panel judges that has already been formed by the Judge. This is just one example that the court has been doing a pretty good job in the past seven years.

(At this point, President H. Guerrero took over the Chair.)

President H. Guerrero: Delegate Nabors?

Secretary Nabors: Mr. President, I support the amendment but I believe, Delegate Lizama, it is unwise to include an exclusion in the interest of having anyone picked up the Constitution anywhere in the world and raise question in their minds, why or what kind of a court system do we have out here with the judges or the judiciary being excluded? In the interest of duplication or redundancy, I would suggest that we'll not exclude anyone and have the Legislature reenact whatever it is already enacted in the Legislature.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Floor Leader Lizama: Mr. President, I do not have any objection to that. Maybe this will be just a minor amendment to the amendment, exclude the words "with the exception of the judiciary".

Delegate Nabors seconded the motion.

Floor Leader Lizama: I move to end debate.

Delegate Mendiola: Just one question.

President H. Guerrero: I want to recognize first Delegate Mendiola.

Delegate Mendiola: Yes, Mr. President, I would like to ask the three lawyers that are in this room, by adopting Recommendation No. 30, will this stop the judicial branch from coming out with their own Code of Ethics?

Secretary Nabors: No.

Delegate Villagomez: No. (in Chamorro)

President H. Guerrero: It's probably much more stringent than the others.

Floor Leader Lizama: I move to end debate.

President H. Guerrero: I would like to recognize first Delegate Ogumoro.

Delegate Ogumoro: Thank you, Mr. President. I am in favor of the proposed amendment offered by your Committee on Governmental Institutions. I am, however, not too much in favor....

President H. Guerrero: Excuse me, point of order.

Delegate Ogumoro: I'm talking on the amendment.

President H. Guerrero: Don't make reference to the Committee on Governmental Institutions.

Delegate Ogumoro: Thank you. On the exclusion of the judicial branch, I feel that the comprehensive Code of Ethics should include all the three branches of government. The section on the conduct of members, I wonder if we are not being redundant by having that portion in. It looks like we have already covered that in the first section, unless and I stand to be corrected. Also, on other government employment, Section 6, I'm just also wondering if that is not comprehensive enough. Are we just concerned about the Governor and the Lt. Governor's behaviors? What about the other positions that are appointed and covered under the proposed amendment? Thank you.

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. President, they will be covered. The concerns raised by Delegate Ogumoro are already covered in this proposed amendment.

President H. Guerrero: Delegate Kaipat?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Kaipat: Thank you, Mr. President. Code of Ethics could be applied to one person, a group of people or religious group, and others, etc. We, doctors, also have our own Code of Ethics. I also know that the judges and lawyers have their own Code of Ethics. There's nothing wrong with this proposal. This proposal is just covering from the Governor to janitor, and all those people in between could come up with their own Code of Ethics if they want. But this is blanketing everything. Thank you, Mr. President.

Floor Leader Lizama: I move to end debate.

— Delegate Mendiola seconded, and the motion was carried by voice vote.

President H. Guerrero: We'll vote on the proposed amendment.

The motion to adopt the proposed amendment to Committee Recommendation No. 30 was carried by voice vote.

President H. Guerrero: Delegate Villanueva?

Delegate Villanueva: Clarification, Mr. President. Is the exception to the judiciary deleted?

President H. Guerrero: Yes. Delegate Lizama?

Floor Leader Lizama: I move for the previous question, Mr. President.

Delegate Nabors seconded the motion.

President H. Guerrero: Let's vote on Committee Recommendation No. 30, as amended. Roll call, Mr. Secretary?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 30, as amended, on Second and Final Reading, was voted on by a roll call vote, as follows:

YES: Delegates Vincent Calvo, David Cing, Herman Guerrero, Lorenzo DL. Guerrero, Alonzo Igisomar, Rita Inos, Benusto Kaipat, Esteven King, Luis Limes, Juan Lizama, Jesus Mafnas, Paul Manglona, James Mendiola, Aniceto Mundo, William Nabors, Maria Pangelinan, Karl Reyes, Joaquin Tenorio, William Torres, and Ignacio Villanueva.
(20 votes)

NO: Delegates David Igitol and Ramon Villagomez. (2 votes)

ABSTAIN: Delegates Felicidad Ogumoro and Francisco Tomokane. (2 votes)

And the motion was carried.

Secretary Nabors: Mr. President, I have two negative votes, two abstentions and 20 affirmative votes.

President H. Guerrero: Committee Recommendation No. 30, as amended, passed by 22 votes. Secretary Nabors, can you read Committee Recommendation No. 32, please?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Secretary Nabors read Committee Recommendation No. 32 in its entirety,
as follows:

"COMMITTEE RECOMMENDATION NO. 32

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Article VIII of the Northern Mariana Islands Constitution by
adding a new Section 5 relating to resignation from public office.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Common-
wealth of the Northern Mariana Islands Constitution and Public Law No.
4-30, the Constitution of the Commonwealth of the Northern Mariana Islands
is amended as follows:

"I. Effective upon ratification, Section 1 of Article VIII of the Northern
Mariana Islands is hereby amended by adding a new Section 5 to read:

"Section 5. Resignation from Public Office. An elected public
officer shall resign from office upon certification to be a candidate for
another public office, if the term of the office sought begins before the
end of the term of the office held."

President H. Guerrero: Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I move for the adoption of this
Committee Recommendation on Second Reading.

Delegate Mendiola seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee
Recommendation No. 32. Discussions? Delegate Pangelinan?

Delegate Pangelinan: Thank you, Mr. President. I still have a very
strong reservation with respect to this proposed amendment. I still do
not see why only the legislators, or the Governor, or the Lt. Governor
should be discriminated when they plan to run. Why should they resign
from office upon certification when department directors and other people
are not? I see the department directors more susceptible to influence or
to use their jobs to solicit gifts or influence the voters in many ways.
If this is the reason, which is conflicting, for the legislators, I don't
see any problem because one legislator alone cannot influence the two
houses. So I would like to be better convinced on the motive of this
proposed amendment.

President H. Guerrero: Delegate Limes?

Delegate Limes: Mr. President, the word on line 4, after the word
"public", is that officer or official?

President H. Guerrero: It's officer.

Delegate Villagomez: Mr. President, (in Chamorro)

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Is there any objection?

Delegate Mafnas: No problem.

President H. Guerrero: No problem.

Delegate Villagomez: I'm not finished. Also on line 2, (in Chamorro)

President H. Guerrero: Please note the correction. Delegate Nabors?

Secretary Nabors: Thank you, Mr. President. I have had distributed to each of you a proposed floor amendment to Committee Recommendation 32, to substitute the body of the language in its entirety. The second line, we were on the phone to the Board of Elections to get an indication of their timing from certification to printing of the ballots and we have not yet gotten any information back from them, but we have discussed this and would like to insert, in the blank space on the second line, "after ten days of" and strike "upon" and it should read "after ten days of being certified". And I'd like to move for its adoption.

Delegate Pangelinan seconded the motion.

President H. Guerrero: It has been moved and seconded to amend Committee Recommendation No. 32 with the proposed floor amendment by Delegate Nabors. Discussions on the amendment? Delegate Igitol?

Delegate Igitol: Mr. President, I'm not too clear on this "certified". Do you mean to say that if they are certified, they are qualified to run, or certified upon election or winning the election?

President H. Guerrero: Delegate Nabors, can you answer that?

Secretary Nabors: Thank you. The language in the amendment now would be if he resigns from office within or after ten days after he is certified as candidate by the Board of Elections.

President H. Guerrero: Delegate Mundo?

Delegate Mundo: Thank you, Mr. President. I just want to ask Delegate Nabors, does this also include the resident department heads in Rota and Tinian?

Secretary Nabors: No, it does not.

Delegate Mundo: Why is that?

Secretary Nabors: This position will be restricted to elected officials and only the executive department heads on Saipan. We do not extend any consideration to resident department heads in the islands of Rota and Tinian for no reason practically.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: The resident department heads are as dangerous as the executive department heads if we are talking about influencing their employees.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Secretary Nabors: I certainly have no objection to this. It never occurred to me.

President H. Guerrero: Delegate Inos?

Delegate Inos: Just to elaborate further on that, I just don't like to single out executive department heads. If we are going to include this, then we'll include everybody, because, as Delegate Mafnas said, the resident department heads can be more dangerous.

President H. Guerrero: Delegate Torres?

Delegate Torres: Thank you. To avoid lengthy litigation as to what constitute ten days, I would ask my colleague Nabors to accept an amendment to tag along with that and say "ten working days."

Secretary Nabors: No objection.

President H. Guerrero: Is there unanimous consent to include "ten working days" instead of just "ten days"?

Floor Leader Lizama: Yes.

Delegate Villanueva: No problem.

President H. Guerrero: I call on Delegate Villanueva first.

Delegate Villanueva: Mr. President, I want to ask the Committee on GI or whoever submitted this amendment, are you also including the executive directors of the autonomous agencies?

President H. Guerrero: Delegate Nabors?

Secretary Nabors: As the introducer of the amendment, thank you, Mr. President; no.

Delegate Villanueva: Thank you.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: This amendment is good for me because I don't have to resign, Mr. President, should I select to run. I'm not an executive department head, as well as the executive directors or agencies and instrumentalities of the Commonwealth. Why single out the executive department heads? There is a problem here. What about the deputy department heads and the Social Superintendent for Education, for example?

President H. Guerrero: Delegate Nabors, do you want to respond?

Secretary Nabors: Only to the extent, Mr. President, that I consider the Committee Recommendation No. 32 not to be as inclusive as it should be, and I'm amenable to including as many levels of persons as maybe necessary to ensure that they do not use their office for political purposes.

President H. Guerrero: Delegate Nabors, I mean, Mafnas?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Mafnas: Mr. President, the intent of this proposal is to discourage or maintain public confidence on those officials who have been elected for a particular office. And should they decide to seek another public office, as special part in the proposal, they should resign so that the vacancy of their seats be filled during the general election. So I think Delegate Nabors' concern has merit, however, it conflicts with the intent of the proposal because the intent of the proposal is to maintain the vote of confidence in those individuals who are elected for particular office.

President H. Guerrero: Delegate Manglona?

Delegate Manglona: Thank you, Mr. President. I disagree with everyone on the intent of this proposal. The intent of this proposal is not to eliminate conflict of interest. It's not to maintain vote of confidence on the elected officials, and let me tell you why. If a person has two years remaining in his term of office, less than two years -- let's take a congressman or a senator, for that matter. If this person were to run for the office of the governor, he does not have to resign because if the term of the office sought begins before the end of the term of the office held, he is exempted; so therefore, he does not have to resign. Let's take an executive department head. If this director has two years remaining in his term and he decides to run for an office, he does not have to resign because the term of the office sought begins or does not begin before the end of the term of the office held.

Delegate Mafnas: Point of information.

President H. Guerrero: State your point, Delegate Mafnas.

Delegate Mafnas: An executive department head has no term. He can be removed tomorrow or day after tomorrow. It isn't the same as an elected official.

Delegate Manglona: Well, certain department heads have limited terms. The Public Auditor, for example, is limited to six years. And if it so happens to correspond, then this will not fall under his position. The point is that an elected official here will not be forced to resign if he has less than two years remaining. I think the main intent of this proposal is to prevent a special election from being held. And I think that the only intent of this proposal is so that if you have a senator running before the middle of his term, he would have to resign. And I think that is the only intent. If everybody were to read this carefully, that is the only intent of this proposal and that is why I move to file this proposal. Thank you.

President H. Guerrero: Delegate Villagomez?

Delegate Villagomez: (in Chamorro) I move to end debate.

Delegate Lizama seconded, and the motion was carried by voice vote.

President H. Guerrero: We're back to the proposed floor amendment to Committee Recommendation No. 32.

The motion to adopt the proposed floor amendment offered by Secretary Nabors was defeated by voice vote.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: The proposed amendment is defeated. We are back to the main motion. Delegate Lizama?

Floor Leader Lizama: Mr. President, I would like to state to the delegates that this is a good amendment, the proposed amendment. I think the intent here perhaps is a little bit misunderstood. The intent here is to allow some of our people to be able to seek their office that is being sought, I mean that is being vacated or that will be vacated. This is the intent. And the intent also is to allow the person who is running for another office to spend 100 percent of his time running for the other office and not to mix his campaign activities with his legislative activities, for example, or if we use the Lt. Governor as an example. If he wishes, for example, to run for the Office of the Washington Representative that he should not be allowed to mix up, you know, his activities as Lt. Governor with the expected activities that he will be carrying out during his campaign.

Delegate Manglona: Point of information. Would the senator be forced to resign if he decides to run for Governor if he has a year and a half remaining in his term?

Floor Leader Lizama: That is correct. That is the intent of this.

Delegate Manglona: Well, it says here "if the term of the office sought begins before the end of the term of the office held"; so that means he will not be forced to resign.

Floor Leader Lizama: No. Let's use for an example Senator Borja. I hope he doesn't mind me using his name. But let's say that he wants to run for -- or maybe Senator Borja is not a good example because I think his term is going to expire in November. I think maybe Senator Rasa -- oh, no. Senator Calvo -- yes, Senator Calvo. Let's use Senator Calvo. If Senator Calvo announces, say, today that he's going to run for a Governor.

Delegate Manglona: Well, let's say that's a bad example. Let's take Senator Borja or Senator Manglona.

Floor Leader Lizama: He will not be....

Delegate Manglona: No; but you are defeating your purpose then because he still has four months remaining. He has four months to influence, I mean to work in a conflict of interest information.

Floor Leader Lizama: Well, certification is not made actually until like a month before the general election. And if there's a problem in there, maybe the Board of Elections could come out with a proposed change in their laws or whatever.

Secretary Nabors: Point of information. If you say that the certification isn't until a month of election, so what's the point.

Floor Leader Lizama: The point is, let's use Senator Calvo. If he's going to run for a Governor knowing that he has two more years to go, I think he should be required to resign.

Delegate Manglona: So the purpose is only to prevent a special election from being held.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Floor Leader Lizama: Well, because you see, what if he wins?

Delegate Manglona: Then a special election will be held.

Floor Leader Lizama: What if he wins in-a gubernatorial election?

Delegate Manglona: Then a special election will be held. So that is the only purpose of this proposal but not to eliminate conflict of interest.

Floor Leader Lizama: Maybe, so that we'll prevent a special election. Maybe that's the third reason -- yes.

President H. Guerrero: Delegate Villagomez?

Delegate Villagomez: Thank you, Mr. President. (in Chamorro)

President H. Guerrero: I did mention it. There was no objection and to insert also the word "Constitution".

Delegate Villagomez: I move to end debate.

Floor Leader Lizama seconded, and the motion was carried by voice vote.

President H. Guerrero: Delegate Nabors, can you take the roll call vote?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 32, as amended, on Second and Final Reading was voted on by a roll call vote, as follows:

YES: Delegates Vincent Calvo, David Cing, Alonzo Igisomar, David Igitol, Rita Inos, Benusto Kaipat, Esteven King, Luis Limes, Juan Lizama, Jesus Mafnas, Felicidad Ogumoro, Karl Reyes, Francisco Tomokane, William Torres, Ramon Villagomez, and Ignacio Villanueva. (16 votes)

NO: Delegates Paul Manglona, Aniceto Mundo, William Nabors, Maria Pangelinan, and Joaquin Tenorio. (5 votes)

ABSTAIN: Delegates Herman Guerrero, Lorenzo DL. Guerrero, and James Mendiola. (3 votes)

And the motion was carried.

Secretary Nabors: Mr. President, I have three abstentions, five negative votes, and 16 affirmative votes.

President H. Guerrero: Committee Recommendation No. 32 passed by 19 votes. Secretary Nabors, can you read Committee Recommendation No. 33?

Secretary Nabors read Committee Recommendation No. 33 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 33

"A PROPOSED CONSTITUTIONAL AMENDMENT

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"To amend Section 1 of Article X of the Northern Marianas Constitution.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, Section 1 of Article X is amended to read:

"Section 1. Public Purpose.

"'a) A tax may not be levied and an appropriation of public money may not be made, directly or indirectly, except for a public purpose. The legislature shall provide the definition of public purpose.'"

Floor Leader Lizama: Mr. President, point of information. The word "provide" should have been stricken and the replacement would be the word "establish".

Delegate Villagomez: Mr. President, (in Chamorro) the original language of this amendment, the word "establish" was used and was then amended to "provide", and I think the word "provide" here is correct.

Delegate King: (in Chamorro) I move to adopt Committee Recommendation No. 33 on Second and Final Reading.

Delegate Lizama seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 33. Discussions?

Delegate King: No discussion.

President H. Guerrero: We are going to vote now. Going one, going twice, Secretary Nabors, take the roll call.

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 33 on Second and Final Reading was carried by a roll call vote of 24 affirmative votes.

Secretary Nabors: Mr. President, there are 24 affirmative votes.

President H. Guerrero: Committee Recommendation No. 33 is unanimously adopted. Secretary Nabors, can you read Committee Recommendation No. 34?

Secretary Nabors read Committee Recommendation No. 34 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 34

"A PROPOSED CONSTITUTIONAL AMENDMENT

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"To amend Section 12 of Article III of the Northern Mariana Islands Constitution, to provide for appointment of a temporary public auditor by the governor in the event of a vacancy in the office of public auditor, and to guarantee the minimum budget of the Public Auditor.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, Section 12 of Article III is amended to read:

"Section 12. Public Auditor. The governor shall appoint a public auditor with the advice and consent of each house of the legislature. The public auditor shall audit the receipt, possession and disbursement of public funds by the executive, legislative and judicial branches of the government, an instrumentality of the Commonwealth or an agency of local government and shall perform other duties as provided by law. The Public Auditor shall be guaranteed an annual budget of at least \$500,000. The budgetary appropriation may not be reprogrammed for other purposes, and any unencumbered fund balance in a fiscal year shall be available for general reappropriation. The public auditor shall report to the legislature and the governor at least once every year and this report shall be made public promptly. The public auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the legislature. In the event that there is a vacancy in the office of the public auditor, the governor shall appoint a temporary public auditor to serve until the vacancy is filled."

President H. Guerrero: Delegate Torres?

Delegate Torres: Yes, I just have one friendly concern on line 10. As I understood from the explanation presented by Delegate Pangelinan, she mentioned, and I stand to be corrected if I'm wrong, that even though we are guaranteeing the Public Auditor half a million in the annual budget, the word "guaranteed" is a misnomer because it is really the Legislature that ultimately decides through appropriation. And it really doesn't make sense to say "guaranteed an annual budget" when you know fully well that the budget allocated could be less than \$500,000. So could Delegate Pangelinan....

President H. Guerrero: Point of order, there's no motion to adopt it yet and you're already into discussion.

Delegate King: I move.

Floor Leader Lizama seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 34. Would you like to continue, Delegate Torres?

Delegate Torres: The same, Delegate Pangelinan, if you still remember it.

President H. Guerrero: Delegate Pangelinan?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Pangelinan: Yes, there is no misnomer in the word "guaranteed". The word "guaranteed" means that the Public Auditor will be assured of at least \$500,000 every year. He still has to go through the budget appropriations every year.

Delegate Torres: Let me then ask you this question. Wouldn't it be correct to assume that even though you have this provision, there is no guarantee, in your term, that the Public Auditor will be given \$500,000 and not \$400,000?

Delegate Pangelinan: He is guaranteed not less than \$500,000, so he has to either get \$500,000 or more.

Delegate Torres: Okay, let's say that the Legislature appropriates \$400,000.

Delegate Pangelinan: The Public Auditor is still entitled to \$500,000.

Delegate Torres: Are you saying that budget is the same as appropriation?

Delegate Pangelinan: I'm sorry, will you repeat your question. I just missed it.

Delegate Torres: Are you saying that budget equals appropriation?

Delegate Pangelinan: No.

Delegate Mafnas: Mr. President?

President H. Guerrero: Delegate Mafnas, would you like to clarify?

Delegate Pangelinan: Okay, I yield to Delegate Mafnas.

Delegate Mafnas: If the Legislature, under this proposal, appropriates \$400,000, then the Public Auditor can take the Legislature to court because he is guaranteed in our Constitution \$500,000, at least \$500,000. That's essentially the problem that we are trying to resolve by setting a limitation or a minimum requirement.

Delegate Pangelinan: The budget doesn't equal appropriation. You appropriate to get your money. The Legislature appropriates to give you that \$500,000.

Delegate Torres: Good. To avoid unnecessary litigation, okay, should we change the term to avoid this unnecessary litigation?

Delegate Pangelinan: I don't see how we could have unnecessary litigation under this provision.

Delegate Torres: Well, Delegate Mafnas has just stated that you are guaranteeing half a million and the Legislature...

Delegate Pangelinan: And I have full faith that the Legislature will give \$500,000 to the Public Auditor as guaranteed in the Constitution.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Torres: Delegate Pangelinan, wouldn't you be more or less rest-
less in your sleep when you say the Public Auditor shall be guaranteed an
annual budgetary appropriation?

Delegate Pangelinan: No, because I don't see how you mixed budget and
appropriation. We submit the budget and the Legislature appropriates.

Delegate Torres: That's exactly the point.

President H. Guerrero: Let me call first on Delegate Nabors.

Secretary Nabors: Thank you, Mr. President. I believe, Delegate
Pangelinan, in our discussions during the Committee of the Whole, I raised
a question as to whether or not the Public Auditor had to justify his bud-
get and I believe the response to my inquiry was in the affirmative. And
then I went on to give you a scenario where the Public Auditor could only
justify for \$400,000 and I thought you said at that time that if you only
justified for \$400,000, he will only receive \$400,000. Is that correct?

Delegate Pangelinan: No. I was wrong if I said that. First of all, it's
unrealistic for the Public Auditor to justify for \$400,000 when his re-
quest, I mean, when we are guaranteeing him this dollar figure here
because this is what he said he needs as a minimum to operate the Public
Auditor's Office as of Fiscal Year 1987.

Secretary Nabors: Well, that's just the point. The Public Auditor's
current budget is less than \$500,000 according to Delegate Igitol.

Delegate Igitol: Correction -- that's wrong.

Delegate Pangelinan: No.

Secretary Nabors: That's not true?

Delegate Manglona: Point of information. They used \$450,000 out of the
\$650,000 that they collected from the one percent.

Delegate Pangelinan: Did they use that because that was all that was
given or available, or did they use it because that was all they need?
Because that was not what the Public Auditor testified during our hearing.

President H. Guerrero: Delegate Igitol?

Delegate Igitol: The budget for the Public Auditor for last year was
\$606,000 based on one percent and the total actual expenditure was four
hundred plus thousand dollars. But there are still obligations incurred
that haven't been expended.

Delegate Pangelinan: Right. Obligation is encumbered. You have to obli-
gate to disburse, so the total financial picture there would have to
include obligation. So that figure is not correct.

Secretary Nabors: Thank you for that clarification.

President H. Guerrero: Delegate Nabors?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Secretary Nabors: I think Delegate Pangelinan put her finger on my concern, that is to say that if he's guaranteed \$500,000, we can be sure that he will attempt to justify at least for \$500,000. Whether he needs it in fact or not, he will attempt to justify; we're sure of that.

Delegate Pangelinan: No. What I said was that he's guaranteed at least \$500,000 based on his testimony to us that he will need this money as a minimum to operate at least on the Fiscal Year 1987 Budget.

Secretary Nabors: Thank you, Mr. President, I receive the answers to my inquiry. But for the record, I oppose putting a dollar limitation or maximum in the Constitution. Thank you.

President H. Guerrero: Delegate Torres?

Delegate Torres: Mr. President, so if the Public Auditor justifies in the thinking of the Legislature now only \$400,000 despite the fact that they are guaranteed half a million. Now, the Public Auditor may think that he has justified for half a million, but in the eyes of the Legislature, the Legislature felt that the justification is good only for \$400,000. Of course, the Public Auditor has every right to go to the court and claim the other hundred thousand dollars. But my question is, should we avoid that unnecessary litigation and just state it here as what you are intending to do?

Floor Leader Lizama: Point of information, Mr. President.

President H. Guerrero: Delegate Lizama, state your point.

Floor Leader Lizama: I think Delegate Villagomez has the answer.

President H. Guerrero: Delegate Villagomez?

Delegate Villagomez: Mr. President, (in Chamorro). The Public Auditor shall be assured an annual budget of at least \$500,000. I move that we change the word "guaranteed" and replace it with "assured".

Delegate King seconded the motion.

Delegate Manglona: Point of information.

President H. Guerrero: State your point.

Delegate Manglona: (in Chamorro) Can Delegate Villagomez explain the difference between assured and guaranteed?

Delegate Villagomez: (in Chamorro)

Delegate Manglona: (in Chamorro) So I'll second that motion.

Delegate Villagomez: Thank you.

President H. Guerrero: Before I call on Delegate Kaipat, is there unanimous consent to change the word "guaranteed" to "assured"?

Delegate Inos: Objection.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Secretary Nabors: Why are we going to change that?

President H. Guerrero: Let me call on Delegate Kaipat first.

Delegate Kaipat: Thank you, Mr. President. The word "guaranteed" is no different from assurance or pledge. Pledge, assurance, or guarantee are the same thing here in the Webster's Dictionary.

President H. Guerrero: Thank you, Delegate Kaipat. I'm going to call on Delegate Ogumoro first.

Delegate Manglona: Well, I was just going to explain this to Delegate Nabors because I think he is confused. He doesn't know what is going on. Delegate Nabors, Delegate Villagomez wants to change the word "guaranteed" to "assured".

Delegate Inos: Objection. I think that if we should need an interpreter that Delegate Nabors should have one next to him. I object to using the Convention Floor to interrupt the discussions to just interpret.

Delegate Mafnas: I second that.

Delegate Torres: Mr. President, I believe you recognized Delegate Ogumoro.

President H. Guerrero: I would like to urge for the indulgence of the delegates, so we don't waste time in terms of translating, to please use English as much as possible.

Delegate Ogumoro: Am I now recognized?

Delegate DL. Guerrero: Point of information, Mr. President.

President H. Guerrero: State your point, Delegate Guerrero.

Delegate DL. Guerrero: Mr. President, during the public hearing we asked some questions to the Auditor himself and he preferred to go by this word "guaranteed" simply because he wants to make sure that the Legislature will appropriate it. And in fact I would like to even amend it because I can see the concern of Delegate Torres. The concern he has is the annual budget which actually is just only a guideline or guidelines for budget submission. And I'd like to even, after the discussions.... We have to amend that "an annual appropriation" so that it will give him a guarantee that the Legislature would appropriate the fund as necessary.

President H. Guerrero: First of all, I want to find out whether there's any objection to changing the word from "guaranteed" to "assured".

Delegate Inos: Yes.

President H. Guerrero: There was an objection, therefore, we cannot entertain the word "assured". Delegate Lizama?

Floor Leader Lizama: Mr. President, if that will not work, I would propose that the words "be guaranteed" be stricken and the word "receive" be included.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Any objection? Is there an unanimous consent to changing the words "be guaranteed" to "receive"?

Delegate Inos: Yes.

Secretary Nabors: Shall receive.

Delegate Oquomoro: Objection; what's the difference?

President H. Guerrero: The words or the phrase "be guaranteed" be stricken and the words "shall receive" be included. Is there unanimous consent?

Delegate King: Objection.

President H. Guerrero: There's an objection. We're back to the main motion. I call on Delegate Igitol. Excuse me, let me first recognize Delegate Oquomoro.

Delegate Oquomoro: I think I'm in agreement with the remarks or with the concerns posted by Delegate Torres and Delegate Guerrero. I think that we need to provide a language here that talks about appropriation. A budget is different from an appropriation. The budget, as pointed out by Delegate Guerrero, is a guideline and the Legislature can any time come in with a different appropriation figure. So if our intention is to assure or to make sure that this Public Auditor's Office does not receive less than \$500,000, we need to amend the present language of the proposed Committee Recommendation to reflect that they receive an appropriation of not less than \$500,000. Thank you.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: If we do that, this will be the only place in the entire 50 States and territories where we have a constitutional appropriation. It is a very bad precedence.

Delegate Oquomoro: Mr. President, if I may continue. I also share the concern of Delegate Mafnas, but if the concern of the Committee on Finance and Other Matters is to give the Public Auditor no less than \$500,000, then the language would have to be changed. Now I am also in doubt, or I am also not too sure whether we should include a language of appropriation in the Constitution. That probably needs to be checked with the Legal Counsel. But I think that at this time we need to make that necessary change if that's what the Committee intends and if that's permissible under our laws.

Floor Leader Lizama: Mr. President, point of information.

President H. Guerrero: State your point, Delegate Lizama.

Floor Leader Lizama: I wonder whether we could get an unanimous decision to simply change the word "budget" and include the word "appropriation". This is not an appropriation by adding the word appropriation, it will be just a recommendation that an appropriation would have to be made or something no less than \$500,000. I think this will solve the problem. Shall we get the unanimous consent on this one?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Delegate Nabors?

Secretary Nabors: Thank you, Mr. President. I realize that it might be difficult to have the Legal Counsel on the top of his head address this issue, but I do believe we need some guidance.

President H. Guerrero: Let me call first on Delegate Reyes.

Delegate Reyes: Thank you, Mr. President. I know there's a concern about the language but if I were to be given this language and see to it, I won't have any problem because of this. Based on the requirement for the CNMI, the \$500,000 amount will always be exceeded. In fact, we have a proposal submitted to require the auditors in Rota and Tinian. In other words, at this time the services of the Public Auditor have not yet been fully utilized and the amount has already exceeded. If you count the encumbered funds, it's over \$500,000. So if the Auditor's Office is really going to come up and have a complete control of all the CNMI financial activities and audit and review everything, the amounts like \$700,000 would probably be a correct figure. So to me, to guarantee \$500,000 when I know that the expenses would exceed \$600,000 or \$700,000, I won't have any problem. Thank you.

Secretary Nabors: Did the committee receive any information that the Auditor would not get his budget when he was the creature of the Legislature and is the watchdog for the Legislature?

President H. Guerrero: Delegate Mafnas, do you have any response?

Delegate Mafnas: It happened during the first Administration. Mr. President, if I may speak on the proposal. The way the Public Auditor is budgeted right now, his budget can grow to a million within the next few years or several years and the funds will not revert to the General Fund for reappropriation. Under the proposal, any excess or unobligated or unencumbered balances of funds, the balance will revert to the General Fund. I have no problem with the word "guaranteed" as proposed here if the Public Auditor justifies his budget. And based on his current budget plans and expenditures, it's up to near half a million dollars. I cannot foresee or I don't foresee any reduction in his staff. In fact, his duties and responsibilities have been expanded. According to the new agreement that the Commonwealth signed with the United States, there is a new requirement, the financial management system requirement, so his duties and responsibilities will expand. If the Public Auditor under the present law where he draws his budget, if this proposal is not adopted, I guarantee you that within the next five years his budget will grow to over a million. And what that will do, the Legislature has to come back and ask the Public Auditor to reprogram or amend the law again. Motion to end debate.

Delegate Villanueva seconded, and the motion was carried by voice vote.

President H. Guerrero: Mr. Secretary, can you take the roll call?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 34 on Second and Final Reading was voted on by a roll call vote, as follows:

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

YES: Delegates Vincent Calvo, David Cing, Herman Guerrero, Lorenzo DL. Guerrero, Alonzo Igisomar, David Igitol, Rita Inos, Benusto Kaipat, Luis Limes, Juan Lizama, Jesus Mafnas, Paul Manglona, James Mendiola, William Nabors, Felicidad Ogumoro, Maria Pangélinan, Karl Reyes, Joaquin Tenorio, Francisco Tomokane, Ramon Villagomez, and Ignacio Villanueva. (21 votes)

NO: Delegate William Torres. (1 vote)

ABSTAIN: Delegates Esteven King and Aniceto Mundo. (2 votes)

And the motion was carried.

Secretary Nabors: Mr. President, I have two abstentions, one negative vote, and 21 affirmative votes.

President H. Guerrero: Committee Recommendation No. 34 is adopted by 23 votes and one "no". Yes, Delegate Cing?

Delegate Cing: Can we have a five-minute recess to read this preliminary report that we just received?

(Laughing)

President H. Guerrero: We'll have a five-minute recess and I'm sure I know what that laugh is all about.

The Convention recessed at 3:50 p.m.

RECESS

The Convention reconvened at 4:10 p.m.

President H. Guerrero: The plenary session is back to order.

Secretary Nabors: Point of privilege.

President H. Guerrero: State your point.

Secretary Nabors: Mr. President, during the recess I had an opportunity to get a full translation and explanation of Delegate Villagomez' dissertation in Chamorro and I was advised that he did not cast any character dispersions against me and I therefore would like to apologize if I misinterpreted what he was saying and ask that any reference in the record to my calling him a liar be stricken.

Floor Leader Lizama: No objection.

President H. Guerrero: If there is no objection, so ordered.

(Laughter)

Delegate Mafnas: May I ask him a question? Who was your interpreter?

Secretary Nabors: Delegate Guerrero, Lorenzo.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate DL. Guerrero: Mr. Nabors, I suggest that you apologize for your statement. I demand your apology!

(Laughter)

Secretary Nabors: I apologize again.

President H. Guerrero: Okay. Delegate Villagomez?

Delegate Villagomez: No problem.

Secretary Nabors: Is my apology accepted?

Delegate Villagomez: Yes.

Delegate DL. Guerrero: Not me.

(Laughter)

President H. Guerrero: I don't know whether the members have read the legal opinion for Committee Recommendation No. 36. Or shall we skip this and go on to 40?

Secretary Nabors: Mr. President, I move that if there's no objection, we will defer consideration of Committee Recommendation Nos. 36 and 40. We have some language on 40 that we got to work with and it's not ready.

President H. Guerrero: Yes, Delegate Lizama?

Floor Leader Lizama: Mr. President, the legal opinion is in part correct and in part wrong, so I don't think we need to defer this because I have an amendment to accommodate the concern of the legal opinion that was brought up.

Secretary Nabors: Point of information. I haven't read it and I would appreciate an opportunity to read and decide for myself whether it is partially right or wrong.

Floor Leader Lizama: Okay, yes, I would yield.

Secretary Nabors: Thank you.

President H. Guerrero: If there is no objection, we'll skip 36 and 40 and go down to 44. Secretary Nabors, can you read Committee Recommendation No. 44?

Secretary Nabors read Committee Recommendation No. 44 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 44

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Article III, Section 10 relating to the Governor's emergency powers.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, Section 10 of Article III is amended to read:

"Section 10. Emergency Powers. The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster or, as provided by law, other calamity and may mobilize available resources to respond to that emergency."

President H. Guerrero: Delegate King?

Delegate King: I move to adopt Committee Recommendation No. 44 on Second and Final Reading.

Delegate Mendiola seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 44. Discussions? Delegate Villagomez?

Delegate Villagomez: I think the proposed amendment would read better if the phrase "as provided by law" is placed after "other calamity" so it will be the last part of the things that can give the Governor basis for declaring the state of emergency.

Delegate Mendiola: No objection.

President H. Guerrero: Floor Leader Lizama?

Floor Leader Lizama: Mr. President, the intention for putting the phrase "as provided by law" before the word "other" is to indicate that it is the other calamity that is the concern of the amendment. The other calamity presents a vague meaning and if we would provide in this proposed constitutional amendment the phrase "as provided by law" before "other calamity", that would indicate or would suggest that the Legislature will be prevy to come up with a definition of other calamity that is supposed to be the concern of this proposed constitutional amendment. Does that answer Delegate Villagomez' concern?

Delegate Villagomez: No.

President H. Guerrero: Can you just explain this "as provided by law"?

Floor Leader Lizama: Yes, that is only in reference to the....

President H. Guerrero: Which one? The first one?

Floor Leader Lizama: No. There's no need to define invasion. There's no need to define civil disturbance because that already has been defined by, I suppose, some provisions in our Criminal Code or Civil Code, or what-

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

ever. Natural disaster, there's no need to define that, but I think it's necessary to define what those other calamities are supposed to mean and that's why we inserted the "as provided by law" so that it would only be applicable to the requirement of other calamity situation.

President H. Guerrero: Delegate Villagomez?

Delegate Villagomez: Mr. President, I think "as provided by law" would better describe the calamity if we put it after "calamity" rather than before it.

Secretary Nabors: I agree.

Delegate Calvo: No objection.

Delegate King: No objection.

Floor Leader Lizama: Yes, I understand that. I think what it would or the way this could be read then is that "as provided by law" would apply to all the other state of emergencies situation.

Secretary Nabors: Well, that's true, and if there isn't a definition of the other situations, no problem.

Floor Leader Lizama: Oh, yes. Okay, I understand you. I will not object if such requirement would be necessary. It's fine with me. I have no objection.

Delegate Mendiola: No objection.

President H. Guerrero: Is there unanimous consent to move "as provided by law" and place it after "other"?

Floor Leader Lizama: Yes.

Delegate King: Yes, after "other calamity".

President H. Guerrero: May I call the Legal Counsel? Will this change the intent?

Legal Counsel Smith: If you take out that comma, it will read "other calamity as provided by law". But to separate the word "calamity" by "as provided by law comma", it would make calamity as provided by law. That essentially determines what calamity.

Delegate Villagomez: I think that's the intent of Mr. Lizama.

Floor Leader Lizama: That is the intent of the proposed amendment.

President H. Guerrero: So where do we put the "as provided by law"?

Secretary Nabors: After the word "calamity".

Delegate Villagomez: But remove the comma.

Secretary Nabors: Yes, but remove the comma.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Villagomez: Yes. I can read it as it should be finalized.

President H. Guerrero: Can you read it?

Delegate Villagomez: Okay. "The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster or, other calamity as provided by law, and may mobilize available resources to respond to that emergency."

Delegate Mafnas: Is that a motion?

Delegate Manglona: I don't think there should be a comma after "or".

Secretary Nabors: I don't think we need that comma either.

Delegate Villagomez: That's true. No objection.

President H. Guerrero: So is there unanimous consent? No objection?

Delegate King: No objection.

President H. Guerrero: Discussions?

Delegate King: Ready to vote.

Floor Leader Lizama: I move for the previous question.

Delegate Mendiola seconded the motion.

President H. Guerrero: Secretary Nabors, can you take the roll call?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 44, as amended, on Second and Final Reading was carried by a roll call vote of 24 affirmative votes.

Secretary Nabors: Mr. President, there are 24 delegates voted in favor of this Committee Recommendation.

President H. Guerrero: Committee Recommendation No. 44 is adopted by unanimous vote. Can you read Committee Recommendation No. 45?

Secretary Nabors read Committee Recommendation No. 45 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 45

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Section 2 of Article III of the Northern Marianas Constitution relating to Qualifications of the Governor.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"I. Effective upon ratification, Section 2 of Article III is amended to read:

"Section 2: Qualifications of the Governor. The governor shall be qualified to vote in the Commonwealth, at least thirty-five years of age, and a resident and domiciliary of the Commonwealth for at least ten years immediately preceding the date on which the governor takes office. A different period of residence and domicile may be provided by law. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted."

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. President, I move for the adoption of this Committee Recommendation on Second Reading.

Delegate Pangelinan seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 45. Discussions? Delegate Manglona?

Delegate Manglona: I move that "thirty-five years old" be amended to "thirty-two years old".

Delegate Nabors seconded the motion.

President H. Guerrero: Is there unanimous consent? Any objection?

Delegate Mendiola: Yes.

Floor Leader Lizama: Yes.

Delegate Villagomez: I'd like to know how old Delegate Manglona is.

Delegate Manglona: Thirty-one and a half.

(Laughter)

President H. Guerrero: Delegate Torres?

Delegate Torres: Mr. President, I thought that we agreed with Delegate Manglona, but I'd like to recommend that we -- okay. Yesterday, I mean, last I tried to put this down to thirty and nobody agreed. So I want to recommend that we put "thirty-five" and put an age limit to "seventy".

(Laughter)

President H. Guerrero: Is there any objection?

Delegate Mafnas: Yes.

President H. Guerrero: Delegate Mendiola?

Delegate Mendiola: Mr. President, just a question. Does this mean that Filipino, Korean or any national who has been here for ten years can run for Governor?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Floor Leader Lizama: Yes.

Secretary Nabors: If he is otherwise qualified.

President H. Guerrero: He has to be a citizen also to qualify to vote.

Delegate Mendiola: Another question.

Delegate Manglona: Point of order. Mr. Mendiola is out of order. There was a motion that was seconded.

~~Delegate Mendiola: I thought we are in discussions.~~

President H. Guerrero: Was seconded on what?

Delegate Mafnas: There was an objection on the floor.

President H. Guerrero: Since you are making a floor amendment, it has to be by unanimous consent, provided nobody objects. Unless it's in writing, since you did not submit anything in writing.

Delegate King: Point of order.

President H. Guerrero: State your point.

Delegate King: Delegate Manglona is out of order.

(Laughter)

President H. Guerrero: Delegate Mendiola, continue please.

Delegate Mendiola: Another question, Mr. President. If I am convicted of felony in Nauru and I served twenty years of prison term there. Am I still eligible to be a Governor?

President H. Guerrero: Can somebody answer that?

Delegate Cing: You will not even make it to first base, Mr. President, if you are convicted of a felony.

Delegate Mendiola: My question is, am I eligible to vote, I mean, to run for Governor?

President H. Guerrero: Delegate Lizama, could you answer that?

Floor Leader Lizama: What was the question?

Delegate Mendiola: If I'm convicted of a felony in Nauru, am I be eligible to run for Governor?

Floor Leader Lizama: I would yield to Delegate Nabors.

Secretary Nabors: We could not determine your eligibility unless we went to Nauru and ascertain whether their criminal laws are in consonance with those of U.S. or in U.S. jurisdiction.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Mendiola: How about if it is?

Delegate Mafnas: The answer is yes.

Secretary Nabors: If it is, yes. If they are in consonance with the U.S. or Commonwealth, then you would not be eligible even though you served your time because no full pardon.

Delegate Mafnas: Where does it say that in the proposal, Mr. President?

Secretary Nabors: On line 11.

Floor Leader Lizama: Mr. President, let me answer that. I think Delegate Nabors is a little bit incorrect. I think if you have been convicted in Japan 20 years ago of felony that this provision here would not necessarily exclude you from being eligible to run for Governor for the reason stated by two or three attorneys during the public hearing that the definition of what is being felonous in Japan may not necessarily be felonous in the Commonwealth and in the United States jurisdiction. But suppose that the felonous definition is the same in Japan as it is in the Commonwealth, suppose that that is the case, it would be so imaginary to experience one of these days and in the future for somebody like that who has been convicted of a felony in Japan to come here and run for Governor. It's not a realistic thing so that's why I have a recommendation that we just forget about including felony conviction in a jurisdiction outside the United States and the Commonwealth.

President H. Guerrero: Did he answer your question, Delegate Nabors?

Secretary Nabors: It was not my question.

Delegate Manglona: Point of information. Our Committee asked that question and I would like to ask the representative of the Attorney General what is his opinion on that.

Delegate Mafnas: Point of information.

President H. Guerrero: State your point.

Delegate Mafnas: If there is a provision here that a felony convicted elsewhere, then the question is appropriate. But we are talking about a person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States, so the question is different. It's not addressing to the proposal. Thank you.

President H. Guerrero: Delegate Villanueva?

Delegate Villanueva: Mr. President, I'd like to ask the unanimous consent of this Convention to replace "qualified to vote in" with "a registered voter of". I'd like to request the unanimous consent to replace, on line 4, "qualified to vote in" with "a registered voter of", and I'd like to explain that.

Delegate Mafnas: Please explain.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Villanueva: Mr. President, you don't have to be a registered voter to run for a Governor, and I feel that it should be at least a qualification that you register.

Floor Leader Lizama: Objection, Mr. President. There is a requirement for voting registration and a person may qualify to vote but he may not necessarily willing to exercise that right to vote in one particular election. However, if we're going to require that person, it is not going to serve any purpose at all by replacing the words "qualified to vote" as suppose to "registered to vote" because anybody could register if he is qualified, and the procedure to register is available.

President H. Guerrero: I call on Delegate Kaipat.

Delegate Kaipat: Thank you, Mr. President. I would like to suggest to insert the words "sound mind". I would like to amend to insert the words "sound mind". In other words, not crazy; you have to be normal mentally. And perhaps it could come in under line 5, "thirty-five years of age" and then insert a comma, "sound mind and a resident of the Commonwealth."

Floor Leader Lizama: Mr. President, point of information.

President H. Guerrero: State your point.

Floor Leader Lizama: In a normal situation, a person is not qualified to vote if he is not a person with sound mind. So that's what the committee felt. This is Delegate Kaipat's proposal by the way, except that we excluded the words "sound mind".

Delegate Kaipat: Yes, I think it should be in.

President H. Guerrero: Is there unanimous consent?

Delegate Villanueva: No objection.

Delegate Limes: No objection.

President H. Guerrero: Is there any objection?

Floor Leader Lizama: Yes; it's unnecessary.

President H. Guerrero: Your recommendation is defeated. Is there any further discussion? Delegate Torres?

Floor Leader Lizama: I move for the previous question.

There was a second to the motion.

President H. Guerrero: Delegate Torres?

Delegate Torres: I kind of forgot what I was about to say. But in line with Delegate Kaipat's thinking, perhaps it would be more appropriate if we say competent. But again, you know, we don't really need to have that here because we are talking about the "highest office" in the Commonwealth. I attempted unsuccessfully last night to reduce the age so I think that the way this thing is written is sufficient to guaranty competency in the Office of the Governor. Thank you.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. President, I would like to urge the delegates to support this Committee Recommendation No. 45 for the reason that what we're really doing here is that we would be increasing the residency and domiciliary requirements from seven to ten years. This is very important for the Commonwealth. And since there is no written amendment and we need unanimous consent to amend this Committee Recommendation No. 45 at this time, I move for the previous question, Mr. President.

Delegate Pangelinan seconded the motion.

President H. Guerrero: Secretary Nabors, can you take the roll call?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 45 on Second and Final Reading was voted on by a roll call vote, as follows:

YES: Delegates Vincent Calvo, David Cing, Herman Guerrero, Alonzo Igisomar, David Igitol, Rita Inos, Benusto Kaipat, Luis Limes, Juan Lizama, Jesus Mafnas, Aniceto Mundo, William Nabors, Felicidad Ogumoro, Maria Pangelinan, Karl Reyes, Joaquin Tenorio, Francisco Tomokane, William Torres, and Ramon Villagomez. (19 votes)

NO: Delegates Esteven King, James Mendiola, and Paul Manglona. (3 votes)

ABSTAIN: Delegate Lorenzo DL. Guerrero and Ignacio Villanueva. (2 votes)

And the motion was carried.

Secretary Nabors: Mr. President, we have two abstentions, three negatives and 19 affirmatives.

President H. Guerrero: The Committee Recommendation is adopted by 21 votes. Secretary Nabors, can you read Committee Recommendation No. 46?

Secretary Nabors read Committee Recommendation No. 46 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 46

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Section 4 of Article III to limit the Governor to two terms in office.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

"I. Effective upon ratification, Section 4 of Article III is amended to read:

"Section 4. Joint Election of the Governor and Lieutenant Governor. The governor and lieutenant governor shall be elected at large at large within the Commonwealth for a term of office of four years. The governor and lieutenant governor shall be elected jointly with each voter casting a single vote applicable to both offices. No person shall be elected governor more than twice."

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. President, I move that we adopt Committee Recommendation No. 46, without debate.

Delegate King seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 46. Delegate Villagomez?

Delegate Villagomez: With unanimous consent, I propose that we change the word "shall" to "may", on line 8, to be consistent with the Constitution.

Delegate Pangelinan: He just contradicts his policy.

Delegate Manglona: Point of information. There is no line 8.

Secretary Nabors: Yes, there is. There is a line 8.

Delegate Manglona: No.

Secretary Nabors: There is on the matters that were passed out at the opening of the session. The package that was put on your desk, that's the one that we are using.

Delegate Pangelinan: I thought that we agreed that those are minor changes.

Secretary Nabors: Yes, I thought that we agreed that those were minor changes, anyway.

Delegate King: No problem.

President H. Guerrero: Delegate Tomokane?

Floor Leader Lizama: Point of information, Mr. President.

President H. Guerrero: State your point, Delegate Lizama.

Floor Leader Lizama: There's no line 8. What line are we talking about?

President H. Guerrero: Delegate Lizama, can you make reference to the things that were passed out?

Floor Leader Lizama: I apologize, Mr. President.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Delegate Tomokane, you have your hand up?
Delegate Mafnas?

Delegate Mafnas: I move to end debate.

Floor Leader Lizama seconded the motion.

President H. Guerrero: It has been moved and seconded to end debate.

Delegate Villagomez: Wait. Did we change it?

Floor Leader Lizama: Yes, it was accepted.

Delegate Calvo: There was no objection to that.

The motion to end debate was carried by voice vote.

President H. Guerrero: Secretary Nabors, can you take the roll call?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 46 on Second and Final Reading was carried by a roll call vote of 24 affirmative votes.

Secretary Nabors: Mr. President, 24 delegates voted on the affirmative.

President H. Guerrero: The Committee Recommendation is adopted unanimously. Secretary Nabors, can you read Committee Recommendation No. 47?

Secretary Nabors read Committee Recommendation No. 47 in its entirety, as follows:

"COMMITTEE RECOMMENDATION NO. 47

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To amend Section 7 of Article III of the Northern Marianas Constitution relating to succession to the Governorship and Lieutenant Governorship.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, Section 7 of Article III is amended to read:

"Section 7. Succession to the Governorship and Lieutenant Governorship. In case of the removal, death or resignation of the Governor, the Lieutenant Governor shall become Governor and the President of the Senate shall become Lieutenant Governor. If the offices of the Governor and Lieutenant Governor are both vacant, the President of the Senate shall become acting governor and the Speaker of the House shall become acting lieutenant governor. An acting governor or lieutenant governor who

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

assumes office when more than one year remains in the term may serve only until a governor or lieutenant governor is chosen in a special election provided by law."

Floor Leader Lizama: Mr. President, I move for the adoption of Committee Recommendation No. 47 on Second Reading.

Delegate Villagomez seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 47. Discussions?

Delegate King: No discussion; we are ready to vote.

President H. Guerrero: If no discussion, going once, going twice, Secretary Nabors, can you take the roll call?

Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 47 on Second and Final Reading was voted on by a roll call vote, as follows:

YES: Delegates Vincent Calvo, Herman Guerrero, Lorenzo DL. Guerrero, Alonzo Igisomar, David Igitol, Rita Inos, Benusto Kaipat, Esteven King, Luis Limes, Juan Lizama, Jesus Mafnas, James Mendiola, Paul Manglona, Aniceto Mundo, William Nabors, Felicidad Ogumoro, Maria Pangelinan, Karl Reyes, Joaquin Tenorio, Francisco Tomokane, William Torres, and Ignacio Villanueva. (22 votes)

NO: Delegates David Cing and Ramon Villagomez. (2 votes).

And the motion was carried.

Secretary Nabors: Mr. President, we have 23 affirmative votes and one negative vote.

Delegate Villagomez: Correction. I voted e-he.

President H. Guerrero: Can you please confine to...? It's as if everybody is getting out of order. We're making a mockery of this Convention and I'm getting tired of it. If you don't want to be specific on your vote -- you keep changing it or talking in Japanese or other languages that the Secretary cannot understand....

Secretary Nabors: I'm sorry. Did I miss counting one's vote? Who voted -- I have only Delegate Cing voting "no".

Delegate Villagomez: And Delegate Villagomez.

Secretary Nabors: Oh, I'm sorry. I have 22 affirmative votes and 2 negative votes, Mr. President.

President H. Guerrero: Excuse me, can you repeat that again?

Secretary Nabors: I have 22 affirmative votes and 2 negative votes.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Committee Recommendation No. 47 is adopted by 22 votes. Secretary Nabors?

Secretary Nabors read Committee Recommendation No. 48 in its entirety, as follows: -

"COMMITTEE RECOMMENDATION NO. 48

"A PROPOSED CONSTITUTIONAL AMENDMENT

"To add a new Section _____ to Article III to guarantee the independence of boards and commissions.

"BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

"Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended as follows:

"I. Effective upon ratification, a new Section _____ to Article III is added to read:

"Section _____. Boards and Commissions. In every case where the governor appoints a board or commission to perform a regulatory or administrative function or direct the activities of an agency, authority, or public or quasi-public corporation in the performance of a regulatory or administrative function, the members of such board or commission shall be independent and may be removed only on grounds of gross neglect or dereliction of duty, breach of fiduciary duty, conviction of a felony, or mental or physical incapacity. Upon expiration of the term of a member of a board or commission, such person shall cease to be a member unless reappointed in the manner prescribed by law. The governor shall make appointments within thirty days to fill vacant seats on the board or commission. This section shall not apply to boards and commissions that serve a purely advisory function or, except to the extent specifically required by federal law, to boards and commissions created to comply with federal law."

President H. Guerrero: Delegate Manglona?

Delegate Manglona: Yes, just a minor amendment on line 3.

Delegate King: Point of order.

President H. Guerrero: State your point, Delegate King.

Delegate King: Motion -- we need to move.

Delegate Manglona: I move that the Committee of the Whole adopt Committee Recommendation No. 48.

Floor Leader Lizama seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt Committee Recommendation No. 48.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Manglona: Yes, on line 3, there should be a comma after felony.

Delegate Mafnas: There is a comma, Mr. President.

Delegate Manglona: Okay, on line 13, again, to be consistent that should be "may".

President H. Guerrero: I think the word "does" might be more appropriate -- does not. It's not a prohibition; it's an exclusion.

Secretary Nabors: Right. I think that would be more appropriate.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: Last night when we adopted this on First Reading, I indicated a provision here, on line 12, where we are requiring the chief executive to appoint within 30 days whereas Public Law 1-8, as amended, provides that the Legislature must act within 90 days. I ask, Mr. President, the indulgence of the members to make it consistent that we replace "30" to "90".

President H. Guerrero: Any objection?

Floor Leader Lizama: No objection.

Delegate Manglona: Objection. Can we instead change the other law to make it 30 days and not this one?

President H. Guerrero: This is what we are entertaining right now, Delegate Manglona.

Delegate Manglona: Okay, can I state my...?

President H. Guerrero: We cannot change the Public Law. This is a constitutional amendment.

Delegate Manglona: Okay, I have objection to that then.

Delegate Mafnas: Mr. President, if there is an objection, I move for a five-minute recess so I can have the word "thirty" and "ninety" days typed and distributed.

Floor Leader Lizama seconded the motion.

President H. Guerrero: Recess for five minutes.

The Convention recessed at 4:41 p.m.

RECESS

The Convention reconvened at 5:00 p.m.

President H. Guerrero: The session is now called back to order. Delegate Mafnas?

Delegate Mafnas: Thank you, Mr. President. On page 1, line 12, I move to delete the word "thirty" and insert the word "ninety".

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Villanueva seconded the motion.

President H. Guerrero: It has been moved and seconded to delete the word "thirty" and insert the word "ninety" on the amendment. Discussions? Delegate Manglona?

Delegate Manglona: Mr. President, I'll go along with Delegate Mafnas; but before that, I would like to ask him if this will be sufficient for him and also for the unanimous support of the delegates. On line 13, would this be sufficient to include a sentence there that says "the Legislature shall act on the confirmation of appointments within thirty days"?

President H. Guerrero: Where are you, Delegate Manglona?

Delegate Manglona: On line 13, after the word "commission", would it be sufficient for the delegates to put there a sentence "The Legislature shall act on the confirmation of appointments within thirty days"?

Floor Leader Lizama: No objection.

President H. Guerrero: Is that an alternative to Delegate Mafnas'?

Delegate Manglona: Well, I'm saying that if he doesn't like this, then I'll go along. I mean, I have no problem with this proposed amendment. If he agree with this, then....

Delegate Mafnas: May I ask him a question? Why didn't you disagree with my amendment to begin with?

Delegate Manglona: Because I thought that your concern was, it was unfair that one branch had a longer time than the other. So rather than going the other route, I was going the other route of reducing the other branch. And if this is sufficient, then I would ask for your support. If not, then I'll go along with this proposed amendment.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: My point on the amendment is to provide consistency. If thirty days is going to be it and the Legislature would be required to act on the appointments within the same period of time, I have no objection.

Delegate Manglona: Then I ask the unanimous approval of all the delegates here to insert on line 13 the sentence "The Legislature shall act on the confirmation of appointments within thirty days."

Floor Leader Lizama: No objection.

Delegate Villagomez: Objection.

Delegate Tomokane: Point of information.

President H. Guerrero: Delegate Tomokane?

Delegate Tomokane: I believe the reason why the Legislature has ninety days is because they need to scrutinize the backgrounds of all these appointees so that, you know, they can really make their decisions upon confirmation.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Manqlona: I'll withdraw my motion.

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: If that is the case, I would support the amendment as provided by Delegate Mafnas. I move to end debate, Mr. President.

Delegate Villanueva seconded, and the motion was carried by voice vote.

President H. Guerrero: We're back to the main motion, I mean, excuse me, on the proposed floor amendment.

There being no further discussion, the motion to adopt the floor amendment offered by Delegate Mafnas was carried by voice vote.

President H. Guerrero: We're with the main motion now. Delegate Nabors?

Secretary Nabors: Mr. President, thank you. There is a public law that was enacted mid early '84, I believe, that authorized the Governor to remove any board member for any reason or no reason. This law was passed by the Legislature to respond with situation faced by the Governor primarily with respect to the Marianas Public Land Corporation. The negotiations that were undertaken to settle the Tinian land problems were bugged down and the Governor was unable to get any, to have any leverage with the board. I believe that the proposed amendment would invalidate that public law and I believe that the Governor should have a free hand to remove any board or any appointee on any board or any commission for any reason or no reason. His thereby choice. If the governor is in any way dissatisfied with the service, I believe the Governor should have the right to remove them. And for that reason, I oppose Committee Recommendation No. 48. Thank you, Mr. President.

President H. Guerrero: Any other discussions? Delegate Mafnas?

Delegate Mafnas: Mr. President, there are appointments to boards and commissions where the Legislature or the Senate's consent is not required. I do not know whether this proposal will provide that appointments where consent of the Senate or the Legislature is not required may be removed with or without cause. For the information of the members, the boards, prior to the passage of the law that Delegate Nabors mentioned, the Governor, under the Constitution and based on the Section-by-Section Analysis of the Constitution, has the power to remove with or without cause unless it was provided. Prior to the passage of that law, it was never provided that they could not be removed. So again, the situation was not that the Governor was having difficulty with the members of the board and he wanted to remove them because he could have removed the members of the board under his authority. Thank you.

President H. Guerrero: Delegate Guerrero?

Delegate DL. Guerrero: Yes. Mr. President, in regards to the same concern that Mr. Nabors had raised, I believe that there is a recent amendment, and we have to check that because of the inconsistencies in some of the federal requirements regarding some of these agencies. And I believe there were, I remember, some requests made that that particular public law

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

should be amended in order that the board could only be removed -- in another words, any board that is appointed and consented by the Senate or confirmed by the Senate could only be removed by the majority members of the board or commissions. The information that I pointed out, I believe because it involves some of the bonding that some of the agencies are now pursuing on case by case. So I think we have to check the Legislature whether that request for amendment has been passed or not.

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Yes, I think perhaps we have had some inconsistencies in the application of that law. But if I may say this, Mr. President and fellow delegates, the general trend now in the United States is to require a removal of board members and commission members only for cause. That trend is increasing and that trend, I should say, should also be followed here in the Commonwealth. I do not believe that the Governor at this time has the authority to remove a board member of the Marianas Public Land Corporation. I do not believe that. But I think in the best interest of politics or in the best interest of the management and operation of the Marianas Public Land Corporation, it has been the experience that some board members of the Marianas Public Land Corporation has taken or had taken by his or her own initiative to resign from the Marianas Public Land Corporation, and upon acceptance of that resignation, then the Governor, our Governor has then the privilege to make another appointment. I have never heard of a Governor removing or requesting or asking a board member of the Marianas Public Land Corporation to resign from the board. I've never heard of that.

President H. Guerrero: Delegate Villanueva?

Floor Leader Lizama: I'm not finished, Mr. President. And I, therefore, would like to ask my fellow delegates to support this Committee Recommendation for the reasons that we are providing in the Constitution: (1) the need for removal to be made only for cause, and (2) we are providing here a time period in which the Governor will be required to make an appointment when the seat of a board or commission is vacated. This is a very important amendment. Thank you.

President H. Guerrero: Delegate Villanueva?

Delegate Villanueva: I think there is a case in the case of a board member in the EDLF and in fact it went all the way to the court and the court decided that that individual has the right to go back to be a member of the board. And this is, I remember, what prompted this authority given to the Governor.

President H. Guerrero: Delegate Tenorio?

Delegate Tenorio: Thank you, Mr. President. I support this amendment and I do not sympathize with Delegate Nabors' statement that the Governor can remove a board member with or without cause. I feel that when appointments are made, they are made with the intention of the appointee of serving the Governor. And if the Governor sees fit that the appointee is not anymore doing his duty, I think that the Governor has the opportunity to remove that member, and this is covered by this proposal. I do not wish for anybody who is doing his duty, who is taking on the responsibilities that has

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

been given to him to be removed without cause. I think that's unfair. If that person is protecting the interest of the people, I think that he should remain in that office and he should be given the opportunity to continue to protect the people in his capacity. So any form of removal without cause, I think is unreasonable. Thank you.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: Thank you, Mr. President. I don't think this is tying the hands of the Governor because right now he can remove with or without cause. What we are doing over here, we're just deleting his authority which is without cause. It is important though, and I think when the Governor makes or prior to nominating anybody for the Governor to explain the policies of his Administration or the executive branch the public policies and it's incumbent for that specific nominee to carry out the public policies to the best of his ability. I do not want to see a board member removed without cause because he exercised or he decided on a particular issue to the best of his ability which is contrary to the expectation of the chief executive. So, Mr. President, I think we still can have a good working relationship between members of the boards and commissions and the chief executive. I support this statement, but the question is, if the Governor removes a board member, is he authorized under any statute to appeal his removal? That is my question. Is there a statute that authorizes him to appeal such removal? For example, if I am charged with the dereliction of duties and I would like to protect my name, is there a statute that will allow me to appeal such removal?

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. President, the intent here is to require a removal only for a cause. Now if a member of the board of directors or a member of a commission feels that his removal is without cause, now that person may go before the court and ask the court for determination of the factor situation whether the reasons for his removal were necessarily under the scope of the so-called for cause. So I think there is a leeway for that person to seek his remedy. And I think maybe the question is not really that problematic because there is that opportunity for that person to go before the court to question his removal.

Delegate Mafnas: Mr. President, I still have the floor. The reason why I asked that question is because in many of the statutes that we have or in some of the statutes, there is such a provision that a member is removed because of either neglect or dereliction of duty. Such member is permitted under the statute to appeal such removal. So are we saying then that even if it's not authorized under this proposal that member is authorized to appeal?

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: If there is a statute providing for such an appeal process, I don't see any problem. Again then the Governor and the commission or the board involved could decide or make a determination whether the removal was for the reason that is necessary. The appeal process, that's a different matter. But, of course, any person that is removed from the board or commission has the due process of law to use for purposes of making sure that he is not being removed for a reason not without cause.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Delegate Mafnas, continue.

Delegate Mafnas: Mr. President, I am not questioning the integrity of my chairman; no, I am not debating him. I am concerned because I have heard of legal opinions where it says "unless it's provided". If it's provided then you can do it; if not, then you cannot do it. Here, my question is, it is not provided. Maybe we can refer to the Representative from the Attorney General.

Floor Leader Lizama: No objection, Mr. President; so we'll direct the question of Delegate Mafnas to the Assistant Attorney General.

President H. Guerrero: Yes, can I ask that you come up to the mike please?

Legal Counsel Smith: I would concur with Delegate Mafnas' statement that if it's not provided by law, you do not do it; if it's provided by law, you will be able to do it.

President H. Guerrero: Delegate Mafnas, did he answer your question?

Delegate Mafnas: Thank you. Therefore, the victim under this proposal will not have a way in clearing his name. I would like to make that point. Thank you.

President H. Guerrero: Delegate Mendiola?

Delegate Mendiola: I just want to go back to the Attorney General's answer. Does the board member have a right under Section 5 on Personal Rights the due process of law?

Legal Counsel Smith: He would have due process rights as were to somebody who is appointed at the pleasure of a legislative body or an executive body but does not have the same due process rights as a U.S. citizen. He is acting in an appointed position.

Floor Leader Lizama: Question.

President H. Guerrero: Delegate Lizama?

Floor Leader Lizama: Mr. Smith, suppose that this constitutional amendment is ratified and then there is this requirement that the removal can only be made if there is a cause involved. Now, if we have this provision, don't you think that this provision would then allow for the requirement that that person be given due process? Now if you do not have this requirement and the person serves at the pleasure of the Governor, of course, I understand his due process may be less than or lesser than the due process that is normally applied to a citizen. Do you agree in that statement?

Legal Counsel Smith: Yes, I would agree with that statement. He would have certain due process rights established the cause under which he is to be removed and presumably the Legislature under their power would provide some vehicle which he could be heard, to show that he should not be removed or that he should be removed. There has to be some vehicle in the removal other than the Constitution.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Floor Leader Lizama: Question. Could you be referring then to, say, for example, an administrative procedure where such procedure provides for an appeal process?

Legal Counsel Smith: Not necessarily in an appeal process but some procedure where facts are presented under which he is to be removed.

President H. Guerrero: But don't you just file it in court?

Floor Leader Lizama: Normally, when you exhaust your administrative remedies, so that is the rule. And if there is such a procedure, then you go after that procedure first before you go to court. Now, if there is no such procedure, then a person has every right to go before the court.

President H. Guerrero: Are those people covered under the Civil Service?

Delegate Mafnas: Yes, Mr. President, the Civil Service members may be removed for cause but such removal is appealable. It's provided in the law. If it's not provided, then they could be removed and they could not appeal.

President H. Guerrero: I call on Delegate Kaipat first.

Delegate Kaipat: Thank you, Mr. President. I am for this proposal, as amended. I just want one minor clarification here. On lines 7 and 8, it says "may be removed only on grounds of gross neglect or dereliction of duty". The word "dereliction" is the same as neglect. I was wondering if this is a double talk, or just a law terminology "neglect of duty". Dereliction means neglect. There is no other definition.

Floor Leader Lizama: Mr. President, I move to end debate.

President H. Guerrero: Just a minute. Mr. Smith, can you just.... Were you asking the difference between "conviction" and "dereliction"?

Delegate Kaipat: No. According to my definition, dereliction means neglect, and it says "only on a ground of gross neglect", that's one neglect, "or dereliction" which means neglect. I was wondering if this is a double talk--gross neglect or neglect. I was wondering if somebody can define this; I'm not very sure about it. But the definition of dereliction means neglect, negligence. So we have a double talk--neglect or neglect of duty. Or maybe they have other definition. I don't know. I just want some clarification.

President H. Guerrero: Let me ask Steve on that to probably explain.

Steve Woodruff: I don't really know for sure, but this is generally a common language in a legislation. But it would seem to me that dereliction could include something like malfeasance which wouldn't necessarily be neglect.

Delegate Mafnas: Right, malfeasance in public office.

Floor Leader Lizama: Or misfeasance.

Delegate Kaipat: I didn't get the last part. What was the word?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Steve Woodruff: Malfeasance which would be improper conduct.

Delegate Kaipat: According to this--Mr. Webster, it says the same thing, dereliction means neglect, neglect means dereliction. I was wondering if this is a double talk. Some of my patients always say, "neglect, neglect," so I was wondering if this is a double talk.

President H. Guerrero: Delegate Nabors?

Secretary Nabors: Thank you, Mr. President. The Legislature, as I referred earlier on Public Law 1-8, it says that "any person appointed to any board, agency, commission by the Governor shall serve at the pleasure of the Governor and may be removed by the Governor with or without cause." This subsection applies to all boards, agencies, commissions or positions, including Directors of the Marianas Public Land Corporation. That's 1 CMC p. 263. Now, this proposed amendment would change our Code and I question whether or not it is wise to do so. But in order to answer my question, I need first to ask a question. If this proposal is adopted, will it have retroaction effect, i.e., any board member currently serving, or say, a remainder of one year term. What does he do in November or January? Would he be required to submit a courtesy resignation to the new Governor whether he is the incumbent or not?

President H. Guerrero: Deleat Mafnas?

Delegate Mafnas: If a new Governor comes in, will he submit his resignation?

Secretary Nabors: There will be a new Governor in January. Now the question is whether or not these members must submit their resignations if this is adopted in November.

Delegate Mafnas: I don't see any provision here where a board member is required to submit his resignation, so the answer to your question is no.

Secretary Nabors: Therefore, Mr. President, we will have a new Governor and if the new Governor is the incumbent Governor, perhaps there is no concern. But if the new Governor is not the incumbent Governor, then the new Governor would be saddled with commission members, board members who may have three or even four years to go on their without any opportunity of selecting boards and commission members to carry out his administrative policies which may or may not be the same as the current Governor's administrative policies. And I therefore feel that it's unfair to tie the hands of the chief executive to have the authority to select those individuals who will agree to carry out the policies of his Administration. Thank you.

President H. Guerrero: Delegate Lizama?

Delegate Lizama: I think I understand the concern of Delegate Nabors. However, I think that if we really think about it, if Delegate Nabors is a board member of the Mariana Islands Housing Authority that if Delegate Nabors during this year's election campaign if he is a member of MIHA and he is supporting the other candidates and assuming that the present Governor gets re-elected, then I think it's pure simple common sense and pure simple logic that maybe Delegate Nabors should submit his resignation

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

rather than trying to be so greedy and so protective of his board membership. And I think it's a common sense that if you're not supporting the Governor's appointee, I think you should resign rather than fake it. There's a thing in our campaign slogans; what is that, Delegate Mafnas? You know better, I think.

Delegate Mafnas: People with progress...

Delegate Lizama: There is such a thing, you know. It doesn't make you look good if you have previously supported a different candidate and you still want to be there. It makes you as if you have no place to go and so you are so dependent on that particular place. It makes you look down, little, or whatever.

President H. Guerrero: Delegate Mafnas?

Delegate Mafnas: Thank you, Mr. President. Under this proposal, all the new Governor has to do is hand you a letter, Delegate Nabors, and say "You have neglected your duty, I am removing you." And you have no way to appeal this. That's why I asked about whether a removal is appealable under this, according to the Attorney General's Representative, unless it is provided for. So your concern will be taken care of if there is a new Governor and the board members do not share his goals and objectives or his policies, he can remove them. And you don't have any way to prove that you are not innocent of malfeasance in public office.

President H. Guerrero: Any more discussions? Delegate Guerrero?

Delegate DL. Guerrero: Mr. President, I'll asked the Assistant Attorney General to clarify it because, as I stated earlier, that I believe some of the agencies or the autonomous agencies of this government which is the CPA, for that matter that I stated earlier that some of the agencies have been exempted simply because of some technical requirements. Because of the bonding that is involved, the project of the Airport Authority or the project of the Port Authority that involves the bonding part of this project. And the information, of course, that I have gathered is it's being exempted. So if we have to put this very provision in the Constitution and should the people ratify this, again we lock those people in, or we lock that very particular public corporation into this language.

President H. Guerrero: Thank you. I call on Delegate King.

Delegate King: Thank you, Mr. President. I just like to ask a question before I make my decision to support this. On line 11, where it says "unless reappointed in the manner prescribed by law," is the person that is going to be reappointed necessary to be confirmed again by the Senate? I'm asking this to any members of the Governmental Institutions.

President H. Guerrero: Can somebody answer that? Delegate Mafnas?

Delegate Mafnas: Yes, Mr. President. The individual has to go through a confirmation process when he is reappointed.

President H. Guerrero: Delegate King?

Delegate King: Thank you.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Any other discussions? Delegate Cing?

Delegate Cing: I move to end debate, Mr. President.

Delegate Mendiola seconded, and the motion was carried by voice vote.

President H. Guerrero: We're going to vote on the Committee Recommendation No. 48, as amended. Roll call please?

Delegate Mafnas: Mr. President, privilege.

President H. Guerrero: Yes, Delegate Mafnas.

Delegate Mafnas: I want the record to show that any member of boards and commissions who is removed under this provision, if this is ratified by the people, will not have an appeal right. Thank you.

At this point, Secretary Nabors called the roll, and the motion to adopt Committee Recommendation No. 48, as amended, on Second and Final Reading was voted on by a roll call vote, as follows:

YES: Delegates David Cing, Herman Guerrero, David Igitol, Benusto Kaipat, Esteven King, Juan Lizama, Jesus Mafnas, Paul Manglona, Felicidad Ogumoro, Maria Pangelinan, Karl Reyes, Joaquin Tenorio, Francisco Tomakane, William Torres, Ramon Villagomez, and Ignacio Villanueva. (16 votes)

NO: Delegates Lorenzo DL. Guerrero, James Mendiola, Aniceto Mundo, and William Nabors. (4 votes)

ABSTAIN: Delegates Vicente Calvo, Alonzo Igisomar, Luis Limes, and Rita Inos. (4 votes)

And the motion was carried.

Secretary Nabors: Mr. President, I have 16 affirmative votes, I have four negative votes, and I have four abstentions.

President H. Guerrero: Committee Recommendation No. 48 is passed by 20 votes. Can I get some direction from the floor whether you would like to adjourn for dinner, I mean, just for dinner? Yes, Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I move that we recess until eight o'clock.

Secretary Nabors: No, 7:30 p.m.

Delegate Villanueva: Seven o'clock.

Floor Leader Lizama: 7:30 p.m. or 7:45 p.m.? 7:30 p.m., Mr. President.

Delegate Mendiola seconded the motion.

President H. Guerrero: It has been moved and seconded to recess until 7:30 tonight.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

There being no further discussion, the motion was carried by voice vote.

The Convention recessed at 5:41 p.m.

RECESS

The Convention reconvened at 7:58 p.m.

President H. Guerrero: The session is back to order. We're under Item I of the Order of Business. There is no Introduction of Resolutions and Referrals, no Unfinished Business, and no Special Orders of the Day.

INTRODUCTION OF RESOLUTIONS AND REFERRALS

None

UNFINISHED BUSINESS

None

SPECIAL ORDERS OF THE DAY

None

GENERAL ORDERS OF THE DAY

Committee Recommendation No. 49: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND ARTICLE X, SECTION 4 TO ADD THE PROHIBITION AGAINST PUBLIC DEBT."

Committee Recommendation No. 50: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND SECTION 9(a) AND (b) OF ARTICLE III OF THE NORTHERN MARIANAS CONSTITUTION TO MANDATE A BALANCED BUDGET FOR THE CNMI GOVERNMENT IN EVERY FISCAL YEAR."

Committee Recommendation No. 51: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND ARTICLE XI, SECTION 6(a) TO PROVIDE FOR AN INCREASE IN THE NUMBER OF TRUSTEES OF THE MARIANAS PUBLIC LAND TRUST FROM THREE TO FIVE."

Committee Recommendation No. 52: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND SECTION 13 OF ARTICLE II OF THE NORTHERN MARIANAS CONSTITUTION RELATING TO SESSIONS."

Committee Recommendation No. 53: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND SECTION 2 OF ARTICLE II OF THE NORTHERN MARIANAS CONSTITUTION TO ADD A NEW 'SUBSECTION (d)' RELATING TO THE COMPOSITION OF THE SENATE."

Committee Recommendation No. 54: "A PROPOSED CONSTITUTIONAL AMENDMENT TO AMEND SECTION 3 OF ARTICLE II OF THE NORTHERN MARIANAS CONSTITUTION BY ADDING A NEW 'SUBSECTION (d)' RELATING TO COMPOSITION OF THE HOUSE OF REPRESENTATIVES."

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: We are now under General Orders of the Day. Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I move that we resolve into a Committee of the Whole.

Delegate Manglona seconded the motion.

President H. Guerrero: It has been moved and seconded to resolve into the Committee of the Whole. Discussions?

— There being no discussion, the motion to resolve into a Committee of the Whole was carried by voice vote.

The Convention resolved into a Committee of the Whole at 7:59 p.m.

COMMITTEE OF THE WHOLE

The Convention reconvened its plenary session at 10:46 p.m.

President H. Guerrero: The session is back to order. Delegate Manglona?

Delegate Manglona: Mr. President, the Committee of the Whole adopted Committee Recommendations No. 49 and No. 50. Committee Recommendation No. 51 was adopted, as amended, to read as follows: "The Trust shall have five trustees appointed by the Governor with the advice and consent of the Senate: three shall be from Saipan, one from Rota, one from Tinian, one shall be a woman and one shall be a person of Carolinian descent." Committee Recommendation No. 52 was adopted, as amended. On line 8, it should read "ninety days each year, sixty days before April 1, and thirty days after July 30 of each calendar year." Committee Recommendations No. 53 and No. 54 were adopted. I move that the report of the Committee as a Whole be adopted on First Reading.

Delegate King seconded the motion.

President H. Guerrero: It has been moved and seconded to adopt the Committee of the Whole's recommendation, as amended, for Committee Recommendation Nos. 49, 50, 51, 52, 53 and 54. Discussions?

There being no discussion, the motion to adopt the Committee of the Whole's report for adoption of Committee Recommendation Nos. 49, 50, 51, 52, 53 and 54 on First Reading was carried by voice vote.

MISCELLANEOUS BUSINESS

President H. Guerrero: Is there anything on Miscellaneous Business? Delegate Villagomez?

Delegate Villagomez: I wish to make a short observation. During the beginning of our Convention, Chairman Guerrero was asked to translate the speech that he made because the words therein were too difficult. I took the courage of speaking in Chamorro during the deliberations today and I observed that I was very well understood by our delegates. And then other delegates took up the practice of using our language and I find that they did that with a great deal of relaxed manner, being able to speak very

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

clearly and organize and express themselves a lot better than in trying to speak a foreign language. I wish that we have done this earlier and I think it would encourage, I mean not encourage, but it would expedite the ability of the delegates to understand clearly without having to go over the same points over and over again. I do apologize that it is difficult for our delegate from Tinian, Bill Nabors. I realized that he understands Chamorro to a certain extent but I don't think that we should sacrifice being able to adequately express ourselves in the interest of having the only member who could not speak Chamorro like ourselves do the same. I hope that we don't again accuse a delegate of lying to the Convention or being a liar simply because he uses his language, especially when he didn't lie and he was not a liar at the time that he spoke his language. Thank you.

President H. Guerrero: Thank you Delegate Villagomez. Delegate Lizama?

Delegate Lizama: While I appreciate hearing Delegate Villagomez about why he spoke in Chamorro, in vernacular, all afternoon today, while I appreciate that, I think we should not forget the fact that I, for one, also -- well, first of all, I, for one, don't speak very good English but we should not forget the fact that it is important in our societal rules that we have to be considerate. Delegate Nabors has just as much interest in listening to what is being deliberated in this Convention, so as much as possible we should make every efforts to use the most simplistic form of vernaculars and at the same time also we should not forget the fact that we have also press people here in the Convention. And it's very important for the press to understand what's going on during the proceedings of our deliberations. I am not going to go against anybody speaking in our language or languages but I think that in all due respect we learned from our parents that we should be courteous, we should be respectful and I don't think we should forget that now just because we have become more intelligent, more educated and more matured. Thank you very much.

Delegate Mafnas: Mr. President?

President H. Guerrero: Yes, Delegate Mafnas.

Delegate Mafnas: Tomorrow I'll start speaking in Chamorro all day. Thank you.

President H. Guerrero: Delegate Villanueva?

Delegate Villanueva: I want to request the Chair to provide an interpreter for Delegate Nabors. It's only fair that we do that.

Delegate Nabors: And everything stops until I get the interpretation then we proceed.

President H. Guerrero: Delegate Kaipat?

Delegate Kaipat: Thank you, Mr. President. Beginning tomorrow, I'll start deliberating in Carolinian.

(Laughter)

Delegate Manglona: I demand an interpreter.

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

President H. Guerrero: Yes, Delegate Pangelinan.

Delegate Pangelinan: Thank you, Mr. President. I wish Delegate Villagomez will just speak for himself and not speak for the others. So what if my English is mixed and at times stucked because I cannot find the right words? It doesn't also mean that I can express myself better in Chamorro.

Delegate King: Point of information, Mr. President.

President H. Guerrero: You like those words too much, Delegate King. Go ahead.

Delegate King: (in Chamorro)

President H. Guerrero: I'm not opposing to, I mean, I am not in favor of the official languages, so that's why I'm going to vote "no" for that.

Delegate Inos: (in Chamorro)

(Laughter)

Delegate Mafnas: Mr. President, privilege.

President H. Guerrero: Yes, Delegate Mafnas.

Delegate Mafnas: I think the tension is very high because we've exhausted ourselves and whatever was said on the floor was said out of intention. Thank you.

Delegate King: (in Chamorro)

President H. Guerrero: Any announcement? Delegate Ogumoro?

Delegate Ogumoro: Mr. President, before we go down to Announcements, I understand that we still have some very significant committee recommendations that are still yet to be reported. I wonder if you have made plans for those that have not even been introduced for First Reading. What plans do we have right now to entertain those should the Legislature not pass the legislation, the amendment to Public Law No. 4-30 to allow us to meet for another seven days?

President H. Guerrero: Delegate Ogumoro, I'm not sure other than stopping the clock or suspending our Rules of Procedure to accommodate those things. Delegate Guerrero?

ANNOUNCEMENTS

Chairman DL. Guerrero: Yes, Mr. President, the Committee on Finance and Other Matters would like to announce to each of the committee members that we'd like to meet at nine o'clock tomorrow morning, or 9:30 tomorrow morning.

President H. Guerrero: Any other announcements? Chairman Manglona?

2ND CON CON JOURNAL -- 28th Day
July 15, 1985

Delegate Manclona: Mr. President, if, again, we are meeting in the afternoon, our Committee would be meeting at 9:30 tomorrow morning. Thank you.

President H. Guerrero: Any other committee announcements? Chairman Lizama?

Chairman Lizama: Mr. President, I would like to meet with the members of the Committee on Governmental Institutions tomorrow at 9:30 a.m. for the last time.

President H. Guerrero: Any other announcements? If none, Floor Leader Lizama?

Floor Leader Lizama: Mr. President, I move that we adjourn until tomorrow afternoon at one o'clock.

Delegate Mendiola seconded the motion.

Delegate Villagomez: Mr. President?

President H. Guerrero: Yes, Delegate Villagomez?

Delegate Villagomez: I move to amend that motion to make it 10:00 a.m.

Delegate Inos seconded the motion.

President H. Guerrero: If there is no objection, we'll meet at 10:00 a.m. tomorrow.

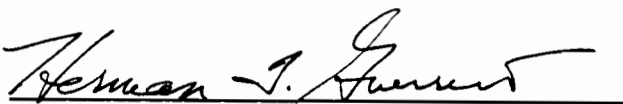
Floor Leader Lizama: No objection.

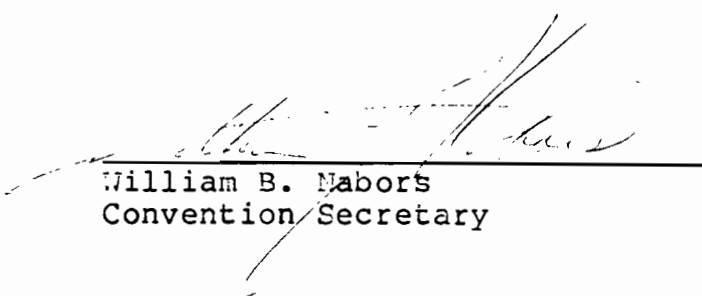
Delegate King: No objection.

There being no further discussion, the motion to adjourn was carried by voice vote.

The Convention adjourned at 10:58 p.m. and to reconvene at 10:00 a.m., Tuesday, July 16, 1985.

APPROVED:


Herman T. Guerrero, President
Northern Marianas Constitutional
Convention


William B. Nabors
Convention Secretary