

THIRD NORTHERN  
MARIANA ISLANDS  
CONSTITUTIONAL CONVENTIONS

DAILY JOURNAL

EIGHTH DAY

Monday, June 12, 1995

There was no session held on this date.

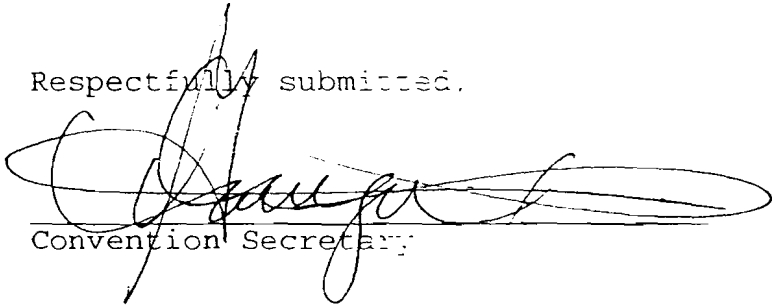
Committee meetings were held. Announcements with respect to committee meetings are attached.

The Committee on Organization and Procedures permitted delegate proposals that had been signed and delivered to the Convention Clerk with instructions to introduce be deemed as introduced on this date. Those proposals are attached and are enumerated on the attached list.

By memorandum, a copy of which is attached, the Committee on Organization and Procedures assigned to the substantive committees delegate proposals introduced after the third day, June 7, 1995.

Errata note: The delegate proposals offered by Delegate David Q. Maratita, referred to in the Daily Journal for the Third Day, are attached to this Daily Journal for the Eighth Day.

Respectfully submitted,

  
Convention Secretary

# MEMORANDUM

DATE: June 8, 1995

**TO** : Members, Committee on Judiciary and Other Elected Offices  
**FROM** : Chairman, Committee on Judiciary and Other Elected Offices  
**SUBJECT** : Notice of Meetings

This is to inform the members of the **Committee on Judiciary and Other Elected Offices** that their meetings will be conducted in the following days and times in the **House Chamber**:

*Monday, June 12 at 1:00 p.m;*  
*Tuesday, June 13 at 9:00 a.m;*  
*Wednesday, June 14 at 9:00 a.m;*  
*Thursday, June 15 at 2:00 p.m.*

The purpose of these meetings is to review and discuss the delegate proposals that have been referred to the Committee. Please bring your copies of the delegate proposals.

Your presence at the meeting will be greatly appreciated.



HENRY U. HOFSCHEIDER

cc. President  
Secretary  
Legal Counsel



# Third Northern Mariana Islands Constitutional Convention

Second Floor, Joeten Dandan Center  
Caller Box 10007, Saipan, MP 96950  
Tel. No.: (670) 235-0843 • Fax No.: (670) 235-0842

- 496 -

June 9, 1995

## REPORT OF THE COMMITTEE ON ORGANIZATION AND PROCEDURES

RE: Committee Membership, Procedures and Schedules

After considering the various comments and suggestions regarding the committee structure and the issues raised during the organization meeting of the committees, the Committee on Organization and Procedures has reached the following conclusions.

- 1. Membership.** The membership of the committee will remain as previously announced. The delegates are reminded that they are free to attend meeting of committees of which they are not members in order to explain and urge adoption of their proposals. Information regarding the tentative agendas and schedules of the committees can be obtained from members of the committees or their Chairs or Vice-Chairs. Delegates will also remain entitled to present their views on the floor of the Convention in the event that substantive committee that considered their proposals did not incorporate their ideas in the recommendation made by the committee to the Convention.
- 2. Procedures.** The Committee has considered whether the proceedings of the committees should be recorded. There is no requirement in the Rules of Procedures adopted by the Convention that requires such recording except for public hearings as specified by Rule 30. The Committee has decided that committee meeting should not be recorded. First, we believe that the members should be free to speak freely, to change their minds when the arguments presented persuade them to do so, and to discuss the issues informally without feeling that every comment is being recorded. Second, after the committee reaches a tentative decision regarding a proposed amendment to the Constitution, counsel will prepare appropriate draft constitutional language and a supporting draft committee report to the Convention. The committee will then review the draft report to see that it accurately records the deliberations of the committee. This report will be the authoritative source for legislative history purposes of the issues considered by the committee and the reasons advanced to support its recommendation to the Convention.
- 3. Schedule.** The Committee has decided to schedule the next plenary session for Thursday, June 15, at 10:00 A.M. We would like to have some proposed amendments and supporting reports from the committees to consider

at that time. This will require that each committee meet regularly next week and work hard according to the agenda adopted by the chairs of the committees. The Convention now has received substantially more than 300 proposals for consideration by the committees. Although many of these identify important issues for consideration, a large number deal with issues that clearly are "legislative" in nature. We ask the committees to consider the briefings of counsel during the pre-convention period and to concentrate on those proposals that are truly fundamental. In addition, we suggest that delegates limit any future proposals to only those areas that have not yet been the subject of other proposals. If you have ideas that you want considered by the committees, you can participate in the committee's discussion of the subject or ask another delegate to consider your suggestions. This Convention has a very important and difficult task before it and we must concentrate now on the work before the committees.

The Committee has approved the following schedule for committee meetings during the week of June 12, 1995:

Monday, June 12, 1995

8:00 A.M.	Committee on Organization and Procedures
9:00 A.M.	Committee on Executive Branch and Local Government
1:00 P.M.	Committee on Judiciary and Other Elected Offices
2:00 P.M.	Committee on Legislative Branch and Public Finance

Tuesday, June 13, 1995

9:00 A.M.	Committee on Judiciary and Other Elected Offices
9:00 A.M.	Committee on Executive Branch and Local Government
2:00 P.M.	Committee on Land and Personal Rights
3:00 P.M.	Committee on Legislative Branch and Public Finance

Wednesday, June 14, 1995

9:00 A.M.	Committee on Judiciary and Other Elected Offices
9:00 A.M.	Committee on Executive Branch and Local Government
2:00 P.M.	Committee on Legislative Branch and Public Finance

Thursday, June 15, 1995

10:00 A.M. Plenary Session

2:00 P.M. Committee on Judiciary and Other Elected Offices (Tentative)

Friday, June 16, 1995

9:00 A.M. Public Hearings (Committee on Land and Personal Rights)  
(Tentative)

2:00 P.M. Committee on Legislative Branch and Public Finance  
(Tentative)

The above schedule, especially with respect to meetings later in the week, is tentative and the entire schedule is subject to revision at the request of the chairs and this Committee.



HERMAN T. GUERRERO  
President

cc: Legal Team

REPORT OF THE COMMITTEE ON ORGANIZATION AND PROCEDURES

Re: Referral of Delegate Proposals to Substantive Committees

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The delegate proposals introduced on Wednesday, June 7, 1995, are referred to the substantive committees as follows:

Committee on Land and Personal Rights

Delegate Proposals 221, 255, 256, 257, 258, 259, 274, 275, 285, 315, 317, 320

Committee on Legislative Branch and Public Finance

Delegate Proposals 41, 42 (re-referred from the Committee on Judiciary and Other Elected Offices), 223, 224, 225, 227, 228, 229, 233, 252, 254, 263, 270, 273, 280, 289, 290, 291, 292, 295, 301, 302, 303, 304, 305, 306, 307, 313

Committee on Executive Branch and Local Government

Delegate Proposals 230, 231, 234, 235, 236, 238, 239, 240, 242, 267, 269, 271, 272, 278, 279, 281, 282, 283, 286, 287, 288, 297, 298, 299, 300, 308, 309, 310, 311, 314, 316, 318

Committee on Judiciary and Other Elected Offices

Delegate Proposals 246, 247, 248, 262, 264, 265, 268, 293, 294, 296, 319

[Note: Delegate Proposals 41 and 42 originally referred to the Committee on Judiciary and Other Elected Offices have been re-referred to Committee on Legislative Branch and Public Finance.]

Respectfully submitted.



Herman T. Guerrero  
President

## REPORT OF THE COMMITTEE ON ORGANIZATION AND PROCEDURES

Re: Referral of Delegate Proposals to Substantive Committees

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The delegate proposals signed and delivered to the Convention Clerk on Thursday, June 8, 1995 and Friday, June 9, 1995 are deemed to have been introduced and are referred to the substantive committees as follows:

Committee on Land and Personal Rights

Delegate Proposals 192, 332, 333, 345, 350, 351, 358, 359, 360, 361, 368, 377, 391

[Note: Delegate Proposal 317, originally referred to the Committee on Land and Personal Rights, has been re-referred to the Committee on Executive Branch and Local Government. Delegate Proposal 320, originally referred to the Committee on Land and Personal Rights, has been re-referred to the Committee on Judiciary and Other Elected Offices.]

Committee on Legislative Branch and Public Finance

Delegate Proposals 58, 59, 190, 191, 213, 231 (re-referred from the Committee on Executive Branch and Local Government), 334, 335, 341, 344, 355, 362, 363, 364, 365, 366, 369, 373, 375, 378, 381, 382, 383, 384, 389

[Note: Delegate Proposals 49 and 270, originally referred to the Committee on Legislative Branch and Public Finance, have been re-referred to the Committee on Judiciary and Other Elected Offices. Delegate Proposals 174, 200, 289, 295, originally referred to the Committee on Legislative Branch and Public Finance, have been re-referred to the Committee on Executive Branch and Local Government.]

Committee on Executive Branch and Local Government

Delegate Proposals 67, 68, 70, 83, 174 (re-referred from the Committee on Legislative Branch and Public Finance), 187, 188, 189, 193, 194, 210, 212, 215, 216, 200, 289, and 295 (re-referred from the Committee on Legislative Branch and Public Finance), 317 (re-referred from the Committee on Land and Personal Rights), 339, 342, 347, 348, 374, 376, 379, 385, 386, 388, 392, 394

[Note: Delegate Proposal 231, originally referred to the Committee on Executive Branch and Local Government, has been re-referred to the Committee on

Legislative Branch and Public Finance. Delegate Proposal 283, originally referred to the Committee on Executive Branch and Local Government, has been re-referred to the Committee on Judiciary and Other Elected Offices.] -501-

Committee on Judiciary and Other Elected Offices

Delegate Proposals 49 (re-referred from the Committee on Legislative Branch and Public Finance), 50, 214, 270 (re-referred from the Committee on Legislative Branch and Public Finance), 283 (re-referred from the Committee on Executive Branch and Local Government), 320 (re-referred from the Committee on Land and Personal Rights), 330, 331, 340, 343, 346, 349, 352, 357, 367, 371, 372, 380, 387, 395

Respectfully submitted,



Herman T. Guerrero  
President



THIRD NORTHERN  
MARIANA ISLANDS  
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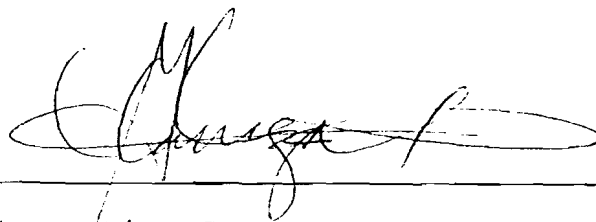
NINTH DAY

Tuesday, June 13, 1995

There was no session held on this date.

Committee meetings were held. Announcements with  
respect to committee meetings are attached. ,

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George", is written over a horizontal line. The signature is stylized and cursive.

Convention Secretary



June 12, 1995

MEMORANDUM FOR THE COMMITTEE ON EXECUTIVE BRANCH AND  
LOCAL GOVERNMENT

SUBJECT: Agenda for Committee Meetings During Week of  
June 12, 1995

I have received a report from counsel regarding the proposals recently filed relating to Article III (Executive Branch) that suggests a minor change in the Committee's agenda for its meetings during the week of June 12, 1995. Counsel informs me that about 130 proposals have been screened by counsel relating to this Article; some of these will not be delivered to delegates until today. About half of them are signed, including those that the President has introduced as a matter of courtesy. Of the remaining half that are unsigned, more than half propose amendments like those already presented to the Convention by signed proposals and others in this category will probably be signed and formally introduced during the next few days.

Counsel also reports that the proposals deal with sections of Article III that were not listed on the agenda previously circulated to you. In fact, there now are proposals that deal with virtually every section of this Article. Under the circumstances, I have decided that it would be easier for all of us if we considered the sections in numerical order. If we reach a section as to which the members do not have all the relevant proposals and wish to defer discussion, we can do so.

Based on the proposals pertaining to Article III, the following appear to be the issues that the Committee should consider with respect to the sections of the Article that we will be discussing during our next few meetings.

1. Section 2: Qualifications of the Governor

There are two issues raised sofar with respect to this section:

a) Does the Committee wish to change the residency and domiciliary requirement for Governor from 10 years to 7 years as originally specified? (#314)

b) Does the Committee wish to require that each candidate for Governor have a psychiatric examination before declaring his or her candidacy? (#370)

2. Section 3: Lieutenant Governor

One issue: Does the Committee wish to specify that the President of the Senate should become the Lieutenant Governor in the event that office becomes vacant? (#63)

3. Section 4: Joint Election of the Governor and Lieutenant Governor

Does the Committee want to change the section so that the Governor and the Lieutenant Governor are elected separately? (#187)

4. Section 5: Compensation

Does the Committee wish to eliminate the reference to specific dollar amounts as an updating amendment? (##4, #234)

Does the Committee wish to provide that the legislature, after receiving the report of the advisory commission, must either approve or reject the recommendation but may not change it? (#234)

5. Section 8: Absence or Disability of the Governor

Does the Committee wish to recognize the creation of the Commonwealth Supreme Court as an updating amendment? (##2,235)

6. Section 9: Executive Functions

Many proposals have been submitted relating to Section 9(a), dealing with the submission of a proposed annual balanced budget, and Section 9(b), dealing with the Governor's duty of making an annual report to the legislature. In addition, there are some proposals to add new subsections to this section.

Section 9(a): The proposals before the Committee raise the following major questions for discussion:

Does the Committee wish to require a biennial budget, specify how it should be prepared, and set forth a timetable for its consideration by the legislature? (## 144, 385)

Does the Committee wish to require the Governor to take actual collections for the last two quarters into account in estimating revenues for the next fiscal year? (#390)

Does the Committee wish to require the Governor to submit the proposed budget at some fixed time before the

beginning of the fiscal year? (##269, 236) If a biennial budget approach were adopted, a similar requirement could be imposed.

Does the Committee wish to eliminate the provision in Section (a) for a continuing resolution if a budget is not passed? (##342, 73, and others)

If the legislature does not pass the proposed budget by a fixed date, does the Committee wish to provide that the Governor's proposed budget should be deemed approved? (##73, 104, 109)

If the Committee wants to delete the continuing resolution provision and not allow the Governor's proposed budget to become effective, what are the consequences if the budget is not passed before the beginning of the fiscal year? Does the Committee want all government operations to stop? (Eg. ##138, 73) Or provide for the continuation of essential services up to some dollar percentage? (Eg. ## 269, 64) Or provide for a more detailed procedures for permitting government expenditures to go forward? (Eg. # 311)

Section 9(b): There seem to be three issues here.

Does the Committee wish to require the Governor to appear personally before a joint session of the legislature to deliver his annual report? (Eg. ##318, 65)

Does the Committee wish to specify the exact date when such a report must be made? (Eg. #318, 181)

Does the Committee wish to require the Governor to submit a comprehensive financial report on an annual basis that meets certain strict requirements? (Eg. #286)

New Subsection: One proposal has suggested that the Governor be required to publish proposed Executive Orders sufficiently in advance to allow meaningful public comment before the Order is put into effect.

## 7. Section 10: Emergency Powers

Does the Committee wish the Governor to act in the face of a "calamity" even though the term has not been defined by the legislature? Can the Governor do so only if the legislature cannot be called into session? Can he act only after giving the legislature a period within which to override his (proposed?) action? Or, if he is permitted to act without legislative approval, is he obligated to report to the legislature within a fixed period of time? (Eg. ## 66, 108)

## 8. Section 11: Attorney General

The many proposals seeking to amend this section raise the following issues:

Does the Committee wish to split the functions of the Attorney General's Office and create a new position of Commonwealth Prosecutor to handle criminal matters? (#297)

Does the Committee wish to change the position of Attorney General into an elected position? (Eg. ## 297, 189, 136, 112, 173, 30, 211)

If so, should the election be on a non-partisan basis? (Eg. #189) Or should the Attorney General run on the same ticket as the Governor and Lieutenant Governor? (Eg. #136)

How long should the term be? Should the Attorney General be limited to two consecutive terms? (Eg. ## 136, 189, 297, 112, 211)

What qualifications for the position should be specified in the Constitution? (Eg. ## 67, 324, 297, 189, 136, 67, 72, 218) Regarding age (30, 35 or other)? Regarding CNMI bar membership? Residence in the CNMI? For how long? U.S. citizenship?

If the position remains an appointed one, are there any changes re qualifications that the Committee wishes to recommend? (Eg. ## 72, 142)

## 9. Section 12: Public Auditor

Does the Committee wish to recommend that the Public Auditor be elected? (Eg. ## 188, 31)

If the position remains an appointed one, does the Committee wish to specify the qualifications for the Public Auditor, such as being a CPA with a degree in accounting and registered to vote in the Commonwealth? (Eg. #68)

If it is an appointed position, should there be limitations on anyone serving as a temporary Public Auditor? Should the legislature required to act on a nomination to this position within a specified period of time? (Eg. #271)

Should the ceiling on the budget be deleted from Section 12 and the Public Auditor required to submit a proposed budget to the legislature for each fiscal year? (Eg. 240)

10. Section 14: Heads of Executive Departments

Does the Committee wish to require that the Senate act within a stated period of time in considering nominations that require the Senate's advice and consent? (Eg. #88) Should there be a requirement that the Senate vote on nominations in open sessions with a recorded vote? (Eg. #88)

Does the Committee wish to require the Governor to nominate a replacement for a vacant position within a fixed period of time and provide that, if the legislature fails to act within a fixed period, the nomination shall be deemed to have been rejected? (Eg. #316)

Does the Committee wish to provide that no gubernatorial appointee rejected by the legislature may be reappointed to the same position? (Eg. #317)

Does the Committee wish to prohibit the Governor from appointing the head of any Department to serve on any board or commission whose members are appointed by the Governor? (Eg. #23)

11. Section 15: Executive Branch Departments

Does the Committee wish to require that both houses of the legislature must act before an executive order effecting changes in the laws becomes effective? If so, is a majority vote sufficient or should a higher vote be required? (Eg. ## 300, 325, 272, 174, 241, 110) Does the Committee wish to specify a limited period of time within the legislature must act? (Eg. #325) Or does the Committee wish to provide that the order would become effective if approved by both houses or if no single house rejects the order within 60 days after submission. (#379)

Does the Committee wish to specify the matters or agencies that the Governor cannot affect through his reorganization authority? (Eg. #379)

Does the Committee wish to nullify Executive Order 94-3? (Eg. #300)

Does the Committee wish to delete the limitation to 15 principal departments in this section? (Eg. #137)

12. Section 17: Public Services

Various proposals referring to this section and dealing with aliens have been transferred to the Committee on the Judiciary and Other Elected Offices. This includes ## 283, 343, 357, 371, 340.

Discussion re the delivery on public services on the separate islands under the supervision of the Mayors, since it involves fundamental issues relating to local government, will be deferred until the Committee has discussed Article VI and the many important proposals made with respect to the sections of that Article.

This leaves for the consideration of this Committee other proposals that would direct that certain actions be taken by the legislature or executive branch agencies. For example,

Does the Committee wish to require the legislature to establish a Commonwealth Health Insurance Plan within two years? (#216)

Does the Committee wish to require the Commonwealth to move towards privatization of the health care system and specifying some of the steps that must be taken to achieve this objective? (#215)

Does the Committee wish to require the Health Center to conduct public hearings on the three major islands before it increases its rates for medical or hospital services? (#282)

Does the Committee wish to direct that the Health Department become a semi-autonomous agency with authority to handle its own collections and personnel matters? (#217)

Does the Committee wish to require that CUC conduct public hearings on the three major islands before it increases its rates? (#281)

Does the Committee wish to require that all government contracts for public projects have required public notice and hearing when change orders are made? (#339)

13. Section 18: Executive Assistant for Carolinian Affairs  
Section 22: Special Assistant for Women's Affairs  
Section 23: Resident Executive for Indigenous Affairs

The first issue here is whether the Committee wishes to delete any of these offices from the Constitution. Some proposals recommend that all three offices be eliminated (Eg. ## 287, 179,

237, 70) Other proposals recommend that only the Women's Affairs and Indigenous Affairs Offices be deleted (Eg. ## 210, 76, 77, 170) Other proposals would eliminate only the Women's Affairs Office. (Eg. #34, 76)

Even if some of these provisions are taken out of the Constitution, there are various proposals before the Committee as to what to do with their functions. Some proposals would combine all three offices into a Department of Community and Cultural Affairs. (Eg. #179) Other proposals are most concerned with preserving the functions of the offices dealing with indigenous affairs and would consolidate the functions of the Carolinian Office and the Indigenous Affairs Office into a single office - perhaps with a constitutional provision to mandate its creation. (Eg. ##34, 388) Other proposals would delegate these responsibilities to the Mayors. (Eg. #237)

Assuming that some of these offices remain in the Constitution, there are proposals that would require the advice and consent of both houses of the legislature for the appointment of their heads and place the employees of the offices under the civil service system. (Eg. ##97, 96)

#### 14. Section 19: Impeachment

Two proposals (##242, 374) would add to the list of offenses for which the Governor and Lieutenant Governor could be impeached.

#### 15. Section 20: Retirement System

Does the Committee wish to delete this entire section because it deals with essentially a legislative matter?

If not, does the Committee wish to delete or add specific provisions to the section? For example, there are proposals that would prohibit the legislature from enacting any new retirement benefits without also funding them (#338), delete the additional five year credit (## 239, 21), delete the 60-day limit on re-employment (#239), preclude the legislature from expending retirement funds for any purpose other than retirement (#239), extend the five year credit back to 1980 (#98), and permit re-employment of retired persons for up to two years (#98).

Does the Committee wish to require that any changes in the terms of the retirement program regarding eligibility be decided only by popular initiative?

Or does the Committee wish to consider a substantially revised section that would seek to protect the retirement funds,



limit the authority of the legislature with respect to such funds, deal with the reemployment issue, etc? (##310, 308, 309)

16. Section 21: Boards and Commissions

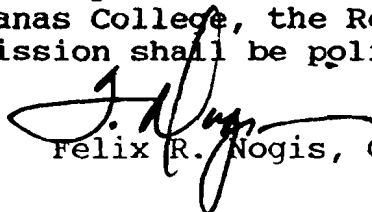
Does the Committee wish to delete this section as a legislative matter? (##238, 288, 171, 40, 33, 83)

Does the Committee wish to require that no executive department shall have any boards or commissions except as required by federal grants? (#347)

17. New Sections

Does the Committee wish to create a new elected position of Treasurer who would assume the duties and replace the Secretary of Finance?-(#299)

Does the Committee wish to provide that the Public School System, the Northern Marianas College, the Retirement Fund, and the Civil Service Commission shall be politically independent? (#386)

  
Felix R. Nogis, Chair

THIRD NORTHERN  
MARIANA ISLANDS  
CONSTITUTIONAL CONVENTIONS

DAILY JOURNAL

TENTH DAY

Wednesday, June 14, 1995

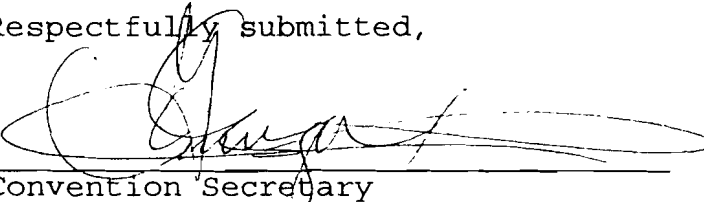
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Committee meetings were held. Announcements with respect to committee meetings are attached.

The Committee on Organization and Procedures permitted delegate proposals that had been signed and delivered to the Convention Clerk with instructions to introduce be deemed as introduced on this date. Those proposals are attached and are enumerated on the attached list.

By memorandum, a copy of which is attached, the Committee on Organization and Procedures assigned to the substantive committees delegate proposals introduced after the third day, June 7, 1995.

Respectfully submitted,



Convention Secretary

LIST OF DELEGATE PROPOSALS  
SUBMITTED TO THE THIRD NORTHERN MARIANA ISLANDS  
CONSTITUTIONAL CONVENTION  
JUNE 14, 1995

No. 396  
No. 397  
No. 398  
No. 399  
No. 400  
No. 401  
No. 402  
No. 403  
No. 404  
No. 407  
No. 408  
No. 414



# Third Northern Mariana Islands Constitutional Convention

Second Floor, Joeten Dandan Center  
Caller Box 10007, Saipan, MP 96950  
Tel. No.: (670) 235-0843 • Fax No.: (670) 235-0842

-525-

## MEMORANDUM

DATE: June 7, 1995

TO : Members, Committee on Judiciary and Other Elected Offices  
FROM : Chairman  
SUBJECT : Notice of Meeting

This is to inform the members of the Committee on Judiciary and Others Elected Offices that there will be a meeting on **Thursday, June 8, 1995, at 10:00 A.M., in the House Chamber.**

The purpose of the meeting is to **organize** and review the delegate proposals that have been referred to the Committee. Please bring your copy of the delegate proposals.

Your presence at the meeting will be greatly appreciated.



HENRY U. HOFSCHEIDER

cc: President  
Legal Counsel



Commonwealth of the Northern Mariana Islands  
Office of the Resident Representative to the United States

2121 R Street, NW, Washington, D.C. 20008 • Phone: (202) 673-5869 • FAX: (202) 673-5873

Juan N. Babauta  
Resident Representative

June 12, 1995

Herman T. Guerrero  
President  
Third Northern Mariana Islands  
Constitutional Convention  
Caller Box 10007  
Saipan, MP 96950

Dear President Guerrero:

Thank you for your letter of May 8 asking for suggestions on how to ensure that my views on proposed changes to the Constitution are presented to the Convention. Thank you, also, for copies of the three proposals dealing with the office of Resident Representative. I received these on June 8.


In your letter of May 8 you recommend that I submit my views in writing and that I also testify in person at a meeting or hearing of the Convention. I agree with your recommendations.

Enclosed with this letter is my initial written response to the proposals. I will appreciate receiving from you all other position papers regarding the office of Resident Representative as they are submitted to the Convention. In this regard, I would ask that you provide a copy of the March 22 speech by the Governor, referenced in your proposal to do away with elections for Resident Representative.

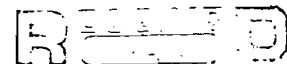
I request, also, that you provide me with the hearing schedule for the proposals on the office of Resident Representative. You can appreciate that because of the travel time involved between Washington and Saipan there is need for advance notice of the date for my personal appearance. Presently, I do plan to be in the CNMI for a period of time after July 12. An opportunity to testify then would be most convenient.

Thank you in advance for providing the other position papers and the schedule.

Sincerely,

  
JUAN N. BABAUTA  
Resident Representative

Enclosure, as noted



JUN 13 1995

Hon. Juan N. Babauta  
Testimony to the Third Constitutional Convention  
on Proposals, 6, 80, and 195  
June 12, 1995

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Mr. President and Delegates of the Third Constitutional Convention:

Thank you for the opportunity to present this initial testimony regarding Delegate proposals 6, 80, and 195, all of which deal with the office of Resident Representative. I look forward to testifying before the Convention or its appropriate Committee on these matters.

Proposal 6 would update the Constitution by removing language describing the transition from a two year to a four year term of office for the Resident Representative. I agree, as your counsel has recommended, that this action should be taken.

Proposals 80 and 195 would do away with the popular election of the Resident Representative. Instead, the Governor would appoint a Washington representative with the advice and consent of the Senate.

In assessing these proposals, what is critical is to respect the intent of those who crafted our Covenant and to understand the thinking of those who first drafted our Constitution and implemented, thereby, the Covenant.

Fortunately, both groups left a crystal clear record for us to follow. Therefore, my testimony need be no more complicated than to provide that record to you and to state that I agree, unequivocally, with the belief of the framers of our Covenant and Constitution: the people should choose their Resident Representative by direct election.

#### **The Covenant Intent**

Section 901 of the Covenant provides that:

The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States...

While a simple reading of this sentence could lead to the conclusion that the Marianas Political Status Commissioners considered the office of

Resident Representative to be optional ("may provide") or that they were ambivalent on the question of appointment or election, neither conclusion would be accurate.

In fact, the Commissioners had no doubt that there should be a Resident Representative and that the office should be filled by election. This is clear from reading the Commission memorandum on Article IX of the Covenant. "It is anticipated, of course, that the Representative will be elected,"<sup>1</sup> they wrote. [emphasis added]

The reference to appointment in Section 901, as the Commissioner's memorandum further confirms, is meant to suggest the means to respond to circumstances such as temporary vacancies.

But it is still desirable to allow the appointment of a Representative so that, for example, interim appointments could be made when the office becomes vacant because of death or resignation.<sup>2</sup>

The record also makes clear the desire of the Commission that the Northern Marianas have a Delegate in Congress, just as the other non-state areas of the United States have. Although temporarily denied their goal, the Commissioners used Section 901 to craft the office of Resident Representative to be as like the office of Delegate as possible and thus ease the subsequent achievement of a representative in Congress. The qualifications for office—residency, age, and citizenship—are, therefore, the same as those of a member of the United States House of Representatives. The term of office is the same. And the provision regarding official recognition and presentation of a certificate of selection are the same as those for the Resident Commissioner from Puerto Rico.

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<sup>1</sup> Marianas Political Status Commission, *Section by Section Analysis of the Covenant to Establish a Commonwealth of the Northern Mariana Islands*, February 15, 1975, page 122. The Commission memorandum was distributed at large for the purpose of educating the voting population in preparation for the referendum on the proposed Covenant. The memorandum has since been used in interpreting the Covenant as a definitive statement of the Northern Marianas' understanding of the meaning of that document.

<sup>2</sup> *Ibid.*

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Given this deliberate effort to make the Northern Marianas Resident Representative so like a Delegate to Congress, it is virtually inconceivable that the Commissioners would not also have expected and wanted the Resident Representative to have the single most important attribute of a member of Congress: the legitimacy of direct election by the people.

In fact, there is no question that this was their intent, because they so stated: "It is anticipated, of course, that the Representative will be elected."

### **Constitutional Implementation**

Those who drafted the CNMI Constitution did so in full compliance with the Marianas Political Status Commissioners' intent regarding election of the Resident Representative.

In fact, many of the Commissioners were themselves members of the First Constitutional Convention and, thus, responsible for implementing their own vision. When the Convention's Committee on Governmental Institutions drafted Article V of the Constitution and provided for election of the Resident Representative, four of the Committee were former Commissioners. Benjamin T. Manglona, Jose R. Cruz, Olympio T. Borja, and Herman Q. Guerrero recommended election of the Resident Representative an action fully consistent with intent of the Covenant they had helped to write.

The other distinguished members of this Committee on Governmental Institutions, who shared with the Commissioners an understanding of the importance of having the Resident Representative be elected by the people, were Chairman Jose P. Mafnas, Vice Chairman Prudencio Manglona, and Gregorio Calvo, David Atalig, Pedro Igitol, Joaquin Torres, David Q. Maratita, Antonio M. Camacho, and Vicente T. Attao.



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The Third Constitutional Convention is fortunate to have in its ranks two of these men: Second Vice President David Q. Maratita and Rota Delegate Benjamin T. Manglona.

What did this distinguished group say to explain why the Resident Representative should be elected? Their words deserve to be quoted in full:

The Committee recommends that the representative be popularly elected. The representative's principal obligation will be to communicate the needs and views of the Marianas people to the federal government. The Committee believes that an official directly elected by the people would respond with greater sensitivity to their wishes. The Committee also concluded that an elected representative would command greater respect among members of the United States Congress than would an appointed representative. The representative's popular mandate, therefore, would contribute to his understanding of the problems of the Northern Marianas, his capacity to translate that understanding into action by the federal government, and achievement of the object of eventually having a non-voting delegate in the United States Congress.<sup>3</sup>

To add any further comment would only detract from the clear, concise, and complete reasoning expressed by the framers of our Constitution.

I close this testimony convinced of the wisdom and foresight of those who created our Commonwealth. I urge the Third Constitutional Convention to respect the intent of the Marianas Political Status Commission, implemented by the framers of our Constitution, to trust in the ability of the people of the Northern Marianas to decide—just as the people of every other part of the United States decide—who they want as their representative in Washington.

Thank you for this opportunity to testify.

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<sup>3</sup> Committee on Governmental Institutions, "Report No. 1: Washington Representatives," October 22, 1976, in *Journal of the Northern Marianas Constitutional Convention*, Volume II, 1976, page 350.