

June 17, 1995

Chairman Jose R. Lifofoi
Vice-Chairman Marian Aldan-Pierce
Committee on Land and
Personal Rights
Third Constitutional Convention
Capitol Hill, Saipan
Commonwealth of the Northern
Mariana Islands

Re: Written Testimony Re: Amendment to Article XII, Section 4

Dear Chairman Lifofoi and
Vice-Chairwoman Aldan-Pierce:

Thank you for providing me the opportunity to present this written testimony to illustrate the need to amend Article XII, Section 4, the definition of Northern Marianas descent. At present the test to determine a person's qualification is two pronged. To qualify as a person of Northern Marianas descent, a person must be 1) born or domiciled within the Northern Marianas by 1950; and, 2) a Trust Territory citizen.

An amendment is needed to clarify the meaning of the term "citizen of the Trust Territory of the Pacific Islands" as it is used in Article XII, Section 4.

The original drafters of Article XII included the requirement of citizenship in the Trust Territory so as to exclude from the group of persons eligible to own land persons who maintained their allegiance to somewhere outside the Trust Territory, as well as the children of persons

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who were stationed in the Northern Mariana Islands ("NMI") only temporarily prior to 1950. These children would have the citizenship of their parents.

In the Analysis of the Constitution, the original drafters of Article XII referenced the provisions of the Trust Territory Code adopted in 1966, as well as the treatment of the citizenship question by the U.S. administering authorities prior to the enactment of the Trust Territory Code.

Unfortunately, there were some uncertainties in the treatment of the citizenship question during the administration of the Trust Territory which have resulted today in uncertainties as to the eligibility of some persons to own land. Of particular concern is the issue of persons who were born in Guam and emigrated to the NMI and other parts of the Trust Territory during the times it was under the control of Spain and Germany, and even later during the Japanese era. Most people who consider themselves ethnically NMI Chamorros trace their lineages to such persons.

Because these persons left Guam and established their homes in the Trust Territory before 1950, it has never been determined whether they were retroactively made U.S. citizens as a result of the passage of the Organic Act of Guam. At the same time, because of the fact of their Guam birth, they did not fall into the most often applied definition of Trust Territory citizen, since they were not "born in the Trust Territory."

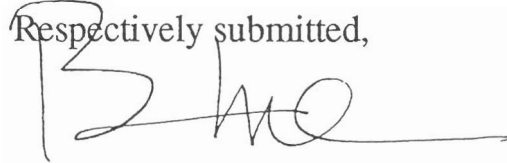
The Trust Territory Government came to recognize this problem in the mid to late 1950's and developed a naturalization procedure to resolve this question of "indeterminate" citizenship. However, only a relatively few persons ever availed themselves of the procedure. Many more died before the naturalization procedure was even established. The uncertainty as to the legal status of these persons continued up to creation of the Commonwealth.

As a consequence, there is an uncertainty still today as to the eligibility of those persons who were never "naturalized," and, by extension, some of their descendants. The precise number of the persons affected is unknown, but the group will necessarily grow with every generation, as people continue to marry and have children of their own.

Using military/Trust Territory records, I believe I have identified a class of almost 300 Chamorros living in Saipan at the time of the American invasion. These same records also indicate that virtually all of these people continued to reside in the Northern Marianas throughout the Trust Territory time. A few were naturalized, most were not. These are the base line ancestors upon which many people currently base their claim to be of Northern Marianas descent. Literally, hundreds of people are affected. In another generation, it will be thousands.

I am proposing an amendment to address this problem by more clearly specifying what is meant by the term "citizen of the Trust Territory of the Pacific Islands," as the term is used in Article XII. The definition needs to be fine tuned to resolve the uncertainty about persons born in Guam or other places who became long term inhabitants of the Trust Territory, obviously a part of the local community, but who never acquired another citizenship. The definition needs to be amended to provide that these persons, those who never maintained allegiance to somewhere outside the Trust Territory, will also be considered citizens of the Trust Territory for the purposes of Article XII. The date of September 2, 1945, coincides with the date of the surrender of Japan which ended World War II. This date is proposed in order that there is no uncertainty as to the status of inhabitants of the Trust Territory who survived World War II but died before the Trusteeship Agreement became fully effective. This would mean that persons from Guam who came to the NMI after the end of World War II would be excluded, while persons from Guam who had emigrated to the Trust Territory previously would be included.

Respectively submitted,



Brian W. McMahon

**PROPOSED AMENDMENT TO
ARTICLE XII, SECTION 4**

The following language would be added to Section 4 of Article XII:

The term "citizen of the Trust Territory of the Pacific Islands," as used in this Article, shall mean those persons who were natural or naturalized citizens of the Trust Territory under the Trust Territory Code and shall be deemed to include all inhabitants of the Former Japanese Mandated Islands as of September 2, 1945 who were not then citizens of another country.