

THIRD NORTHERN  
MARIANA ISLANDS  
CONSTITUTIONAL CONVENTION

DAILY JOURNAL

EIGHTEENTH DAY

Thursday, June 22, 1995

**PRESIDENT GUERRERO:** The 18th day of the Third Northern Marianas Constitutional Convention is hereby called to order.

Please stand for a moment of silence.

(A moment of silence was had.)

**PRESIDENT GUERRERO:** Thank you.

On preliminary matters, I wish to announce that we should complete the plenary session by noon so as to allow the Committee on Legislative Branch and Public Finance to conduct its public hearing, which is scheduled for 1:30 this afternoon.

Con-Con clerk, roll call.

(The Convention Clerk called the roll.)

**CONVENTION CLERK:** Mr. President, we have 25 present and two absent.

**PRESIDENT GUERRERO:** So we have a quorum to conduct the order of business.

We move on to the next order of business, the

adoption of journals.

Mr. Floor Leader.

**DELEGATE HOCOG:** Mr. President, I would like to move to adopt the Daily Journal for the 14th through 16th day.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to adopt the Daily Journal for the 14th through 16th day.

Discussion?

If not, those in favor of the motion say "Aye."

Those opposed, say "Nay."

Motion carried.

**DELEGATE HOCOG:** Mr. President, I would like to move for the adoption of the Summary Journal on the 15th day.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to adopt the Summary Journal for the 15th day.

Discussions?

If there is no discussion, those in favor of the motion say "Aye."

Those opposed say nay.

Motion carried.

**PRESIDENT GUERRERO:** Delegate Igitol.

**DELEGATE IGITOL:** Present.

**PRESIDENT GUERRERO:** Let the record reflect that Delegate Igitol has joined us in the plenary session.

We now move down to the reports of the Committees.

The Committee on Organization and Procedures is working on the schedule for the hearings on Rota. We have sent out the notice for hearings on Rota, which was approved by COP.

On Thursday, the Legislative Branch will have the first session from 9:00 A.M. to Noon. The Judiciary Committee will have the second session, from 1:00 to 4:00 P.M.

On Friday, the Land Committee will have the first session from 9:00 A.M. to Noon. The Executive Branch Committee will have the second session if 1:00 to 4:00 P.M.

We need three committee members to be present at each public hearing session in order to have a quorum. We also need to have each committee designate one or two of its members to write out a summary of the public hearings for our records.

When we get back from the public hearings, we will attach the summaries to our Daily Journal. We won't be able to have the tapes from the public hearings transcribed for some time, so this summary will be important.

I stress, again, the Chair of all the substantive committees should designate at least two people from your committee.

Today, it is our current intention, if you look at the order of business, to have a first reading on every amendment before we proceed to the second reading. That way, you will know that what the whole picture is before you are asked to make the final vote on any amendment.

This will also allow us to send articles back to the committee for adjustments because of what some other committee has done on another article. If we keep our current schedule, we will have time to do it this way.

Basically, we're making all the necessary arrangements for the Rota trip. We should have, perhaps, the tickets and travel documents no later than Tuesday.

With regard to the daily compensation of the Delegates, bear with me. We're still working on it. Hopefully, it will be distributed about the same time as the regular paid government pay day. It will be a pay day for the Delegates, also.

We will move on to the Committee on Land and Personal Rights. I would like to call on Chairman Lifoifoi to give us a progress report by his committee.

**DELEGATE LIFOIFOI:** Thank you, Mr. President.

The Committee on Land and Personal Rights has scheduled a second and third public hearing, which will take place on the 26th at Garapan Elementary School at 7:30 in the evening.

The third public hearing will be held on the 27th at the San Vicente Elementary School at 7:30 in the evening.

Of course, on the 29th, we will be on Rota.

Thank you, Mr. President.

**PRESIDENT GUERRERO:** Thank you, Chairman Lifoifoi.

We move on to the Committee on Legislative Branch and Public Finance.

Delegate Tom Aldan.

**DELEGATE TOMAS B. ALDAN:** Thank you Mr. President.

Your Committee on Legislative Branch and Public Finance has almost finished its review of legislative issues. As you know, there is a public hearing this afternoon. It's concentrated on legislative matters. Hopefully, after the hearing, the Committee will finalize its report and shortly thereafter report to the convention on legislative proposals.

There are other items, Mr. President, that are reflected in the agenda. I defer further on that until we come to it later on.

Thank you.

**PRESIDENT GUERRERO:** Thank you.

Now, I call the Chairman of the Executive Branch and Local Government.

Delegate Felix Nogis.

**DELEGATE NOGIS:** Thank you, Mr. President.

Your Committee on Executive Branch and Local Government is nearing completion on addressing Article III.

I would like to commend the members of the Committee for their diligent and hard work. I would hope that we can try to address Article VI within the next two weeks. The report of that matter is forthcoming.

**PRESIDENT GUERRERO:** Thank you, Delegate Nogis.

I call on Delegate Hofschneider, Chair of the Judicial Branch and Other Elected Offices.

**DELEGATE HOFSCHEIDER:** Thank you, Mr. President.

Mr. President, I'm pleased to report that the committee on Judiciary and Other Elected Offices has completed its work on Article IV. We have issued our report to the Convention. It was included in the Daily Journal yesterday.

We have written entirely a new Article IV. It is short, specific, and economical. We have provided for our current Supreme Court and our current Superior Court to have constitutional status.

We have provided that judges in both courts are appointed by the Governor for an initial term and confirmed by the Senate.

After the initial term, we are providing that judges are retained only after a vote of the people. This

is totally a non-partisan election. The only thing on the ballot is the question, "Should this judge be retained?"

There is no campaigning and no politics. But it gives the voters a chance to decide if a judge is to stay in court.

Mr. President, I realize that we should have distributed the copy of our report earlier, but we needed to have the last meeting to consider the comments that we got from the judges and the Bar Association.

I am pleased to tell you that our draft got very good reviews from everyone. There were only a few suggestions for changes. That is a satisfactory result when we were writing a whole new article.

I would ask that this report be calendared for discussion in the Committee of the Whole today. We will not ask for any vote on the Convention floor. We might put it off for another day. But we would like to explain the article to our colleagues and get a preliminary vote in the Committee of the Whole so we in the Judiciary Committee can move on to other important subjects that we need to consider.

I can also report that the Committee has had a meeting with the current Washington Representative this week to hear his views.

The Committee held had a public hearing

yesterday to hear from persons interested in Article XV to include the Commissioner of Education, the Board of Northern Marianas College, and also Article XX on the Civil Service Commission. We will move forward to work on the articles.

Thank you, Mr. President.

**PRESIDENT GUERRERO:** Thank you, Chairman Hofschneider.

At this time, we move to item 6, the introduction of Delegate proposals.

Any proposals to be introduced today?

Delegate Aldan-Pierce.

**DELEGATE ALDAN-PIERCE:** Mr. President, I have four proposals that I would like to introduce.

Delegate Proposal 473 changes the enforcement provision of Article XII so that transactions found to violate Article XII are voidable rather than void ab initio.

Delegate Proposal 474 adds a severability clause to the enforcement provision of Article XII.

Delegate Proposal 475 adds a modifiability clause to the enforcement provision of Article XII.

Delegate Proposal 476 adds a statute of limitations of six years to the enforcement provisions of Article XII.

**PRESIDENT GUERRERO:** Thank you.

Delegate Vicente Aldan.



**DELEGATE VICENTE ALDAN:** Thank you, Mr. President.

I have seven proposals that I want to propose.

Proposal 453 provides for one municipal council for the Commonwealth.

Proposal 454 and 455 establishes a gaming commission for each respective district if gambling is permitted.

Proposal 456 regards housing and housing allowance.

Proposal 457 regards restrictions on loans.

Proposal 460 regards homestead land for the Northern Marianas Islands.

Proposal 461, I would like to modify that to say for those who lost or sold their land as a result of World War II.

**PRESIDENT GUERRERO:** Thank you, Delegate Aldan.

Any other Delegates? Any proposals to be introduce?

If not, the record needs to reflect that Delegate Taitano has joined us in the session.

We now move to item 7, motions and resolutions.

**DELEGATE HOCOG:** Mr. President?

**PRESIDENT GUERRERO:** Let me recognize first the Floor Leader.

Mr. Floor Leader.



**DELEGATE HOCOG:** I would like to make a motion, but if the President would like to recognize one of the Delegates, he may do so.

**PRESIDENT GUERRERO:** I recognize Delegate Taitano.

**DELEGATE TAITANO:** Thank you, Mr. President.

I have a Resolution to introduce. Can I read the resolution, Mr. President?

**PRESIDENT GUERRERO:** Yes, Delegate Taitano.

"To congratulate the 1995 CNMI All-Star Baseball Team Mobil Games Champions for winning the first Micronesian Mobil Games Championship trophy for the CNMI with its outstanding performance and exceptional, undefeated 4-0 record, and to express appreciation to team sponsor, Frank DLG. Aldan and Robert Salas for their continued support.

"Whereas, the CNMI has been a participant of the Micronesian Mobil Games for the past seven years; and

"Whereas, the 1995 CNMI All-Star Baseball Team defeated the perennial championship teams from Palau and Guam; and

"Whereas, the 1995 CNMI All-Star Baseball Team convincingly won the Mobil

Games Championship title against Guam 12-2;  
now therefore,

"Be it resolved, by the Third  
Constitutional Convention of the  
Commonwealth of the Northern Mariana  
Islands, that the Third Constitutional  
Convention extends its congratulations to  
the 1995 Mobil Games Championships for  
their outstanding team work and  
athleticism; and

"Be it further resolved, by the Third  
Constitutional Convention of the  
Commonwealth of the Northern Mariana  
Islands, that the Third Constitutional  
Convention extends its heartfelt gratitude  
to Frank DLG. Aldan and Robert Salas for  
their enormous commitment in sponsoring the  
team; and

"Be it further resolved, that the  
President of the Convention shall certify  
and the Secretary of the Convention shall  
attest to the adoption of this resolution  
and thereafter transmit copies to the 1995  
CNMI All-Star Baseball Team Mobil Games  
Championships and sponsor Frank DLG. Aldan;

to the Honorable Froilan C. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands; to the Honorable Juan N. Babauta, Resident Representative to the United States; to the Honorable Diego T. Benavente, Speaker of the House of Representatives; to the Honorable Juan S. Demapan, the President of the Senate; to the Honorable Jesus S. Deleon Guerrero, Mayor of Saipan; to the Honorable Herman Manglona, Mayor of Tinian; to the honorable Joseph S. Inos, Mayor of Rota; and, to the Honorable Joseph Ogumoro, Mayor of the Northern Mariana Islands."

Thank you, Mr. President.

**PRESIDENT GUERRERO:** Thank you. Delegate Taitano, are you introducing it?

**DELEGATE TAITANO:** Yes, I'm introducing it as a Resolution. Thank you, Mr. President.

**PRESIDENT GUERRERO:** Do you want the Convention to take action on it or do you just want to introduce it?

**DELEGATE TAITANO:** If the Convention can present the Resolution to the manager, team coaches, and the players of the CNMI All-Star?

**DELEGATE HOCOG:** I would effect a motion placing

Delegate Taitano's Resolution on today's general order of business.

(The motion was seconded.)

**PRESIDENT GUERRERO:** We don't need a point of order, Mr. Floor Leader. We can just entertain it under motions and resolutions, so we don't need to go into the general order of the day.

**DELEGATE HOCOG:** So moved, Mr. President.

(The motion was seconded.)

**PRESIDENT GUERRERO:** Can we make copies for the members before we vote on that one? Can we have a three-minute break?

(A recess was taken from 10:22 A.M. to 10:36 A.M.)

**PRESIDENT GUERRERO:** The session is called back to order.

Before I recognize you, Mr. Floor Leader, can I recognize the author of the Resolution?

**DELEGATE TAITANO:** Thank you, Mr. President.

The sponsor of CNMI All-Star Baseball Team wishes to invite all the Delegates to his residence at the Tropical Gardens for a barbecue dinner at 6:00 P.M. If it's possible, if the Resolution is in its final form, we can present the Resolution at his residence.

**PRESIDENT GUERRERO:** This Resolution has been signed by everybody endorsing it?

**DELEGATE TAITANO:** I believe so, Mr. President.

**PRESIDENT GUERRERO:** Anybody that has not signed the Resolution, sign it later on.

Mr. Floor Leader.

**DELEGATE HOCOG:** Mr. President, I would like to move for the adoption of Delegate Resolution No. 4.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and second to adopt constitutional Resolution No. 4.

Discussion?

If not, those in favor of the motion say "Aye."

Those opposed, say "Nay."

Motion carried.

**DELEGATE TAITANO:** Thank you, everybody.

**PRESIDENT GUERRERO:** We're still doing other resolutions and motions.

**DELEGATE HOCOG:** Mr. President, I would like to recognize Delegate Aldan-Pierce, who would like to offer her pending motion before the Delegates. She is advising the Delegates she wants to make some changes in the rules.

**PRESIDENT GUERRERO:** Before I recognize her, I would wish to point out that Delegate Marian Aldan-Pierce gave one-day's notice to suspend rules and to allow the Convention to vote on changing the cut-off date from July 10th to June 30. This notice is given pursuant to our

rules. We will vote first on the suspension of the rule.

At this time, I would like to recognize  
Delegate Marian Aldan-Pierce.

**DELEGATE ALDAN-PIERCE:** Thank you, Mr. President.

I move to suspend the rules in order that the  
Convention can consider a motion to amend rule 52(d) to  
change the July 10th, 1995 cut-off date for Delegate  
proposals to June 30th, 1995. The notice of this motion was  
given at the Monday, June 19th, session.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded  
to suspend the Convention rules to suspend the Convention  
rules. The rule we are talking about is Rule 62, if you  
want to look it up.

Discussion?

If there is no -- yes, Delegate Vicente Aldan.

**DELEGATE VICENTE ALDAN:** Mr. President, I know that  
there are a lot of proposals being put in. We probably  
don't have the budget to continue the Convention longer than  
needed.

Anyway, I think we have voted on this earlier  
during the Pre-Con-Con to even shorten it more. I don't  
know why we have to shorten it a lot more from July 10th to  
June 30th. I have to be convinced.

Delegate Aldan-Pierce.

**DELEGATE ALDAN-PIERCE:** Thank you, Mr. President.

Delegate Aldan is correct. There are a lot, over 400 Delegate proposals, that have been prepared. Over 375 have been introduced. We have been working on proposals since mid-April. If any of us have any substantial proposals that we would like to introduce, we have had over 60 days to do that.

I think that everybody has had enough time to think about what amendments they would like to introduce. I think, you know, cutting off the deadline 10 days earlier should not make a difference. It will give the committees more time to properly discuss anything that has been submitted to date or that will be submitted as of the deadline if passed.

**PRESIDENT GUERRERO:** Delegate Tom Aldan.

**DELEGATE TOMAS B. ALDAN:** Thank you, Mr. President.

It is my understanding that though we're shortening it to June 30, any member may still submit proposals until we adjourn.

Is that correct, Mr. President?

**PRESIDENT GUERRERO:** No. Any proposal submitted after that will require unanimous consent of the Convention.

**DELEGATE TOMAS B. ALDAN:** Yes, pursuant to the rules.

**PRESIDENT GUERRERO:** Let me --

**DELEGATE TOMAS B. ALDAN:** At any rate, given that, as



provided by the rules, any proposals that relate to any of the other proposals in one form or another may be introduced at the Committee level and may be recommended at the Committee level and need not necessarily be referred to legal counsel because it will be considered at the Committee level. We don't need to have our legal counsel looking at the proposals which can be discussed at the Committee level or on the Convention floor, for that matter.

Thank you.

**PRESIDENT GUERRERO:** Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Mr. President, I have some proposals that are being prepared by lead counsel. I don't know whether they will be finished before that June 30th deadline.

My understanding is that the proposal has to be formally introduced at a plenary session in order for it to be official.

If what Delegate Tom Aldan is saying to the Committee and the Convention, that is right. My understanding is that if after the June 30th deadline the Convention, everyone must agree that it be --

**PRESIDENT GUERRERO:** Delegate Villagomez, the legal team will finish your proposals.

Are you finished?

**DELEGATE VILLAGOMEZ:** No.

Another thing: The COP has already decided there will be no session on that day. I think we go on vacation, something like that.

**PRESIDENT GUERRERO:** Delegate proposals that are being submitted by the committees are being passed out to the members, even if there is no session. They're being distributed to the committees. You will see the packages given to the Delegates. It's there. They assure me they will finish with your proposal.

Before I recognize Delegate Camacho, I'll recognize Delegate Maratita.

**DELEGATE MARATITA:** I want to point out that I think we should act first on the motion whether to suspend the rules. We are discussing the proposed amendment to the rules. We have not acted on the motion to suspend the rules.

**PRESIDENT GUERRERO:** That is the motion, to suspend the rules.

**DELEGATE MARATITA:** Why are we discussing the amendment now.

**PRESIDENT GUERRERO:** We're not.

Delegate Camacho.

**DELEGATE CAMACHO:** Mr. President, we have wasted over one month in the Pre-Con discussing the deadline to submit proposals.

Many of us don't have the legal team or the expertise that Delegate Marian Aldan-Pierce has in terms of submitting proposals. Give us a break.

We have agreed earlier that the deadline should be July 10th. In fact, it was later than that. But we compromised on July 10th. Doesn't anybody understand what 10 days means to the Delegates to come up additional proposals to submit to the Con-Con?

Isn't it a fact that on the 28th we will be going to Rota and to Tinian for public hearings? That means almost 10 days of travel and public hearings that will not allow us to concentrate on proposals.

Give the Delegates a chance. I mean, if it is a lack of funding or lack of staffing that is making this thing a little bit earlier, I'm sure that some of us would be willing to work for free to try to and work something out.

But give everybody an opportunity to submit their proposals. This is all the Delegates are asking. We deserve that much. We were all voted for by the people. We have equal rights in the constitutional convention.

Therefore, don't try to take it away by simply cutting the duration for proposals to be submitted, simply because you have done all you can, or that you think all you need to do is what has been submitted.

Are we asking too much, Mr. President, for that, that we stick to the July 10th deadline to submit proposals? That, I thought, was a compromise date. I did not like it. I wanted it to extend to the period that we were supposed to. Now, I'm aware that you can submit, if you can get everybody to approve it, a proposal later on.

But can somebody tell me whether any proposal can get a unanimous approval? We can see by reviewing the various proposals that even those that are very simple we still have to come and argue over it.

I urge you, Delegates, not to push to this new cut-off date.

There is no time. I don't care whether it has been 60 days since everybody had an opportunity to submit proposals. The law stated that the Con-Con would be for so many days, and we should allow the Delegates that time.

Can you ask the introducer to please withdraw and go back to the July 10th?

Thank you, Mr. President.

**PRESIDENT GUERRERO:** Delegate Juan Tenorio.

**DELEGATE JUAN S. TENORIO:** Mr. President, I move to end the debate.

(The motion was seconded.)

**DELEGATE MANGLONA:** Point of order. I have raised my hand several times, and I wish to speak on the issue.

**PRESIDENT GUERRERO:** I did not see your hand. I just noticed it now. If you raise very high, I'll see it. Some Delegates have raised their hands just above the desk and I cannot see it. If I can't see it, I cannot recognize you. It's not intentional, if that is what you are insinuating.

**DELEGATE CAMACHO:** Mr. President?

**PRESIDENT GUERRERO:** Yes, Delegate Camacho.

**DELEGATE CAMACHO:** I vouch for Delegate Manglona. Perhaps you were looking at the Floor Leader most of the time so you cannot see who is sitting in front you.

**DELEGATE JAMES M. MENDIOLA:** Point of order.

**PRESIDENT GUERRERO:** Order on the floor.

**DELEGATE MANGLONA:** In all honesty, I wish to speak on the issue. I would like ask my fellow Delegates to permit me just to say a few words.

**DELEGATE HOCOG:** Mr. President, we have a motion on the floor. It has been moved and seconded.

Unless the individual making the motion withdraws the motion and the person seconding the motion withdraws the second, we must entertain that motion before we entertain any other Delegates in this Convention. Let's stick to the rules, Mr. President.

**PRESIDENT GUERRERO:** Let me entertain to the motion to end the debate, and then we'll move on.

Those in favor of the motion to end debate, say

"Aye."

Those opposed, say "Nay."

**PRESIDENT GUERRERO:** The "ayes" have it.

We're now back to the main motion.

**DELEGATE VICENTE ALDAN:** Do you want to recall that?

**PRESIDENT GUERRERO:** The main motion is to suspend the Convention rules.

**DELEGATE HOCOG:** I think, Mr. President --

**DELEGATE MARATITA:** Point of order.

**PRESIDENT GUERRERO:** Yes.

**DELEGATE MARATITA:** We should have voted on the motion to suspend the rules first.

**PRESIDENT GUERRERO:** That's what we're doing. The motion is to suspend the rules.

**DELEGATE MARATITA:** We should have voted on that before we discussed --

**PRESIDENT GUERRERO:** Not yet.

**DELEGATE MARATITA:** We are discussing the amendment already.

**PRESIDENT GUERRERO:** That's right. We should be voting on the suspension of the rules.

**DELEGATE MARATITA:** We should have acted on that first.

**PRESIDENT GUERRERO:** Those in favor of motion to suspend the rules please say "Aye."

Those opposed say "Nay."

**DELEGATE HOCOG:** There is a division on the floor.

**PRESIDENT GUERRERO:** Roll call, please.

(The roll was called and the Delegates voted as follows:)

**YES:** Delegates Tomas B. Aldan,  
Marian Aldan-Pierce, Frances LG Borja,  
Victor B. Hocog, Henry Hofschneider, Jose  
Lifoifoi, David Maratita, James Mendiola,  
Felix R. Nogis, Justo Quitugua, Juan S.  
Tenorio. (11 votes)

**NO:** Delegates Vicente R. Aldan,  
Carlos Camacho, Esther Fleming, David  
Igitol, Benjamin Manglona, Terisita  
Santos, Bennet Seman, Marylou Sirok,  
Mariano Taitano, Helen Taro-Atalig, Lillian  
Tenorio, Joaquin Villagomez. (13 votes)

**PRESENT:** Delegates John Oliver  
Gonzales and Donald Mendiola. (2 votes)

**CONVENTION CLERK:** Mr. President, we have 11 members  
voting "Yes," 13 members voting "No," and two members voting  
"Present."

**PRESIDENT GUERRERO:** The motion is defeated.

**DELEGATE LIFOIFOI:** Privilege. Move for a short  
recess.

(The motion was seconded.)

**PRESIDENT GUERRERO:** Short recess.

(A recess was taken from 10:54 A.M. to 11:03 A.M.)

**PRESIDENT GUERRERO:** The session is called back to order.

Now we move from No. 7 to No. 8, any unfinished business. We don't have any.

We move to the special order of the day.

**DELEGATE HOCOG:** Mr. President.

**PRESIDENT GUERRERO:** Yes, Mr. Floor Leader.

**DELEGATE HOCOG:** I would like to move to resolve into the Committee of the Whole for the consideration of the Delegate proposals and committee recommendation for Article XXI, as it refers to gambling, and Article IV, as it refers to the judiciary.

(The motion was seconded.)

**PRESIDENT GUERRERO:** Before I entertain that, can we at least place the calendar for the Committee of the Whole before we resolve?

**DELEGATE HOCOG:** Mr. President, I think it's in the special order of business according to the sheet that I have, that it has been placed.

**PRESIDENT GUERRERO:** Okay.

It has been moved and seconded to resolve into the Committee of the Whole to entertain Article XXI and Article IV.



Discussion?

If there is no discussion, those in favor of the motion to say "Aye."

Those opposed, say "Nay."

Motion carried.

Before we resolve into the Committee of Whole, I would like to appoint Delegate David Maratita to preside.

Thank you. I will call him up to assume the Chair.

**DELEGATE MARATITA:** The article that we will be first dealing with as the Committee of the Whole will be on Article VII and Article XXI, which deals with gambling.

Now, I would like to call on the Chair --

**DELEGATE HOCOG:** Mr. Chairman, I think the article that we will dealing with in the Committee of the Whole is Article XXI and Article IV, not VII.

**DELEGATE MARATITA:** I'm going to take first Article XXI on gambling.

I will now call on the Chair of the Committee on Legislative Branch and Public Finance, Delegate Tom Aldan, to discuss this article.

**DELEGATE TOMAS B. ALDAN:** Thank you, Mr. Chairman.

In considering whether to recommend an amendment that would prohibit gambling entirely, the Committee had to consider and assess the recent history of

gambling in the Commonwealth.

The Committee recognized that some forms of gambling are legal in the CNMI, raffle, bingo, batu, cockfighting, poker machines, and pachinko machines.

The Committee does not intend to interfere with any form of gambling to the extent that it was legal on June 5th, 1995.

For more than 15 years, however, the Commonwealth has debated whether to authorize casino gambling. The issue has been considered in the legislature on several occasions, and it has been the subject of three popular initiatives and two referenda.

Most recently, the second Senatorial district, Tinian and Agingan, in 1989, by popular initiative decided to authorize casino gambling. Investors have made a substantial investment in a gambling facility on Tinian.

The people of Rota reached a different conclusion regarding legalized casino gambling. They rejected the local initiative to permit gambling by a substantial margin in 1991 and 1993.

The majority of the voters, both on Rota and Saipan, voted against legalized casino gambling in 1989, while the majority of Tinian voters supported it.

In light of this history, the Committee decided not to recommend an amendment that would prohibit gambling

entirely. They concluded that such a decision would adversely affect the people of Tinian who have consistently supported legalized gambling as an important component of the long-desired economic development of that island.

Furthermore, in reliance on the 1989 popular initiative in Tinian, a program to develop and promote legalized gambling is well underway, and it would be unfair both to the investors and to the people of Tinian if this course were reversed without a popular vote on Tinian.

The Committee decided, however, to propose an amendment to Article XXI that would permit gambling only in those Senatorial districts whose voters so decided in a popular initiative.

The Committee decided, therefore, to deny authority to the legislature to enact legislation permitting casino or other new forms of gambling and to provide also that a Commonwealth-wide initiative should not be available to accomplish the same objective.

The Committee was aware of the potential economic benefits to the Commonwealth that might result from legalization of casino gambling in the CNMI.

The Committee is also aware of the social, cultural, and political consequences that might follow legalized gambling to these small family-oriented and religious islands.

What the history of the last 15 years has demonstrated is that the people of Rota, Tinian, and Saipan have widely different views on this subject and have assured the potential risk and benefits differently.

Accordingly, the Committee concluded each Senatorial district should be allowed to make this decision for its own inhabitants only by popular initiative. It also serves to provide economic and political stability to the issue that will be welcomed both by the investors and the people.

The Committee concluded that the vote required to legalize gambling should be two-thirds in a popular initiative. Although this is the supermajority vote currently required in Article IX, section 1, the Committee decided to specify this requirement in Article XXI.

The Committee decided not to impose any moratorium on legalization of casino gambling in the Senatorial districts other than Tinian. In view of the past history on Rota and Saipan with respect to sentiments on this issue, the Committee did not believe that such a moratorium was necessary.

In addition, the Committee thought it would be unfair to deny the citizens in any Senatorial district the right to exercise their free choice on this question at any time.

The constitutional language reflecting the Committee's decision is enclosed in the report, Mr. Chairman.

Because certain gambling activities are presently authorized at law, the Committee has included a provision that would exempt such activities from the prohibition contained in the proposed Article XXI.

This language prohibits the legislature from increasing the extent of gambling permitted June 5, 1995, such as by authorizing more pachinko machines.

The Committee recommends this language to the Convention.

The new language under Article XXI, Gambling, Section 1, Prohibition.

Gambling is prohibited in the Northern Mariana Islands except in any Senatorial district when approved in a popular initiative by the affirmative vote of two-thirds of the persons qualified to vote in that district. This article does not prohibit gambling activities in the Commonwealth to the extent authorized by law on June 5th, 1995.

Thank you.

**DELEGATE MARATITA:** Thank you, Mr. Chairman.

Do I hear a motion to adopt the report?

(The motion was made and seconded.)

**DELEGATE MARATITA:** It has been moved and seconded to adopt the report made by Chairman Aldan on Article XXI concerning gambling.

Open for discussion.

Delegate Manglona.

**DELEGATE MANGLONA:** Thank you, Mr. President.

First, let me congratulate Delegate Aldan, the Chairman of the committee that has presented to us the proposal and all of his members for the job well done.

I must congratulate them for promptly deliberating on this sensitive issue that is before us for our deliberation this morning.

I'm proud that my constituents will be provided the opportunity to make this decision themselves because I am a firm believer that an issue like this can best be disposed of by the voters of each island of our Commonwealth.

As this Convention may be aware from the report that just was read out by the Chairman, a few years ago the people of Rota decided to reject the local initiative. I have full respect for their decision.

With this proposal, I'm sure that that will give them the opportunity once again that the issue that is before them to rule and make the ruling themselves.

Thank you very much.

**DELEGATE MARATITA:** Thank you, Delegate Manglona.

**DELEGATE HOCOG:** Ready for the question.

**DELEGATE MARATITA:** Ready for the question?

All in favor of the motion to adopt the report of the Committee on Legislative Branch and Public Finance recommending the proposed amendment on Article XXI, all in favor of the motion say "Aye."

Opposed, say "Nay."

Unanimously adopted.

Now, we shall move on to the next item on the agenda for the Committee of the Whole this morning, Article IV, on the Judicial Branch.

I'll call on the Chairman of the Committee on the Judiciary Branch to please make a report on its recommendations.

Chairman Henry Hofschneider.

**DELEGATE HOFSCHEIDER:** Mr. Chairman, I move that the Committee of the Whole adopt the recommendation of the Committee on Judiciary and other elected offices with respect to Article IV, Judicial Branch.

(The motion was seconded.)

**DELEGATE MARATITA:** It has been moved and seconded to adopt the Committee report as presented by the Committee on the Judiciary Branch and Other Elected Offices pertaining to the proposed amendment on Article IV on the Judicial Branch.

All in favor of the motion say "Aye."

Discussion?

**DELEGATE TOMAS B. ALDAN:** I have a comment.

**DELEGATE MARATITA:** I call upon the Chair to make a further report on the proposed article.

**DELEGATE HOFSCHEIDER:** I would like to remind the Delegates that the Committee report attachment is the proposed Article IV that will be placed in the Constitution should it pass this Convention. The attachment is included.

Mr. Chairman, I would like to explain this article section by section and see if our Delegates have any questions as we go on.

This is a relatively short article. I think I can explain exactly what the Committee has done so that everyone will understand the article.

The article is on the back of your Daily Journal. If you don't have it, I have extra copies with me.

**DELEGATE MARATITA:** Does everyone have a copy of the report?

**DELEGATE HOFSCHEIDER:** It should be attached to the Journal.

**DELEGATE HOFSCHEIDER:** It's dated June 21st. If you don't have it, maybe one of our staff can pass it around.

**DELEGATE HOCOG:** Mr. Chair, can we have a short recess for that?



**DELEGATE MARATITA:** Short recess.

(A recess was taken from 11:18 A.M. to 11:26 A.M.)

**DELEGATE MARATITA:** The Committee of the Whole is reconvened.

I will call on the Chairman, Mr. Hofschneider, to continue his discussion.

**DELEGATE HOFSCHEIDER:** Thank you, Mr. Chairman.

As the Committee worked, we had comments from the Former Chief Justice Dela Cruz, from the Acting Chief Justice Villagomez, Presiding Judge Castro, and from the Bar Association.

Everyone was complimentary of the Committee draft. We took into consideration their suggestions for changes. I will now explain each section and try to answer the questions that you may have, and then we vote on the whole article.

Section 1 establishes the Supreme Court and the Superior Court in the Constitution. This is a result that is desired by all of the proposals that we received, by the courts and other interested groups.

I wonder if there is any question on this section.

**DELEGATE MARATITA:** No questions.

Go on.

**DELEGATE HOFSCHEIDER:** Section 2 covers the Supreme

Court and provides the same system we have now. It now is just included in the Constitution.

May I proceed?

**DELEGATE MARATITA:** Unless there are any questions, the Chairman may proceed.

**DELEGATE HOFSCHEIDER:** Thank you, Mr. Chairman.

Section 3 covers the Superior Court and provides the exact same system that we have now. It is now to be included in the Constitution.

Section 4 has a major change. It provides that after the first initial term justices and judges retain their offices if the people agree.

A question is put on the ballot that says should justice, for example, Dela Cruz be retained? The judge or justice is not allowed to campaign. No politics are involved. The people simply vote whether or not they want this judge or justice retained.

For example, if an associate judge on the Superior Court were appointed at age 35, he or she would be selected by the Governor and confirmed by the Senate. That judge would serve an initial term of six years up to the age of 41.

Just before the six-year term expired, the question would be put on the ballot to see if the people would retain this judge. If a majority of the votes are

cast in the negative, then this judge's term would be over, and there would be a vacancy. The Governor would fill that vacancy for the initial term for some other judge.

However, if the vote is a majority, then the judge will be retained for a term of 12 years. So this judge will serve until the age of 53.

At the general election closest to the end of the 12-year second term, the question will be put on the ballot again whether the judge should be retained. If the majority votes affirmative, the judge will serve another 12 years, or until the age of 65.

The same process will be repeated every 12 years until the judge voluntarily resigns or retires or there are some term limits or age limit set by the legislature.

This was a plan that was proposed by the courts, which also was endorsed by the House of Representatives in their proposed constitutional initiative that passed last December.

The Committee thinks it's a good idea to let the voters have a say in whether the judge should stay on the bench. The Committee thinks the initial political process, selection by the Governor and confirmation by the Senate, is sufficient to insure that we get good candidates, but the reappointment should be a decision of the voters.

That's for section 4.

**DELEGATE MARATITA:** Any questions?

**DELEGATE HOCOG:** Point of information.

**DELEGATE MARATITA:** All right, Mr. Floor Leader.

**DELEGATE HOCOG:** In the event the judge decided not to run under that particular section, what other consideration did the Committee come up with? Is the Governor again allowed to appoint?

**DELEGATE HOFSCHEIDER:** Yes, Mr. Chairman.

**DELEGATE MARATITA:** Delegate Gonzales.

**DELEGATE GONZALES:** What was the reason for not -- my first assumption was that a judge would run against another judge. What is the rationale of the Committee on that question?

**DELEGATE HOFSCHEIDER:** What was the question?

**DELEGATE GONZALES:** I hear that the judge will run against his record. I was wondering about the rationale, why he was not running with another judge?

**DELEGATE HOFSCHEIDER:** This is if the initial term is completed and the judge decided to retain his seat, he can only do so by being elected to sit for the next 12 years.

He will run against his record, against his performance, for the past six years. That will be the basis for the public's opinion whether they will retain him or

not. We tried to shy away from other political activities.

**DELEGATE MARATITA:** Delegate Tenorio.

**DELEGATE LILLIAN TENORIO:** I'm concerned about page 3, that the judges may not engage in any campaign activities.

What if a group mounts a campaign against me? Am I allowed to defend my record?

It seems to me that I won't be allowed to because I can't engage any campaign activities. For instance, Justice Rose Bird was a real controversial Justice in California. When she came up for confirmation, I saw an ad on TV where she was defending her record because there was a heavy opposition group against her confirmation, election, or whatever you call it.

**DELEGATE HOFSCHEIDER:** That is the choice of the people. I think the Constitution provides that the judge cannot engage in any other kind of campaigning for retaining the seat.

**DELEGATE MARATITA:** Delegate Lillian Tenorio.

**DELEGATE LILLIAN TENORIO:** What if a group comes up and says this judge cannot be affirmed by the people? How can I as a judge defend my record if I'm not allowed to engage in campaign activities on my behalf?

It seems to me that this language would preclude me from defending my record if I were that judge.

**MS. SIEMER:** Normally, what happens, Delegate Tenorio, is that the judge himself, or herself, is precluded from engaging in political activity at all. That does not prohibit another group who thinks this judge should be retained from joining the battle.

If there is a group against the judge, there may be a group in favor of the judge, but the judge himself or herself cannot be engaged in politics. The reason for that is to try to take the judge as far away from conflicts of interest as possible.

Justice Dela Cruz may want to comment on that as well.

**MR. DELA CRUZ:** Ordinarily, when one group rises, another group will follow. It's best that a judge stay out of the political phrase.

What we are trying to accomplish is trying to retain that person for that particular office without necessarily having to put him up to do battle with another candidate for the same office. It's an honor post type of retention.

As Delegate John Gonzales noted, a judge runs against his record. If he is doing his job, they vote him in for another term. If they feel he should be taken out, that's the political will of the people. I think it's called the Missouri Retention plan.

**DELEGATE MARATITA:** One moment please. Change the tape.

(Tape change.)

**MR. DELA CRUZ:** There is a safeguard in the system.

**DELEGATE LILLIAN TENORIO:** I wanted to insure that there is an opportunity for the judge to defend his record if he or she needs to.

**DELEGATE MARATITA:** Anymore questions on that?

Delegate Benjamin Manglona.

**DELEGATE MANGLONA:** Section 4, there seems to be a criteria for renominating the judge, and he can serve 12 more years.

What happens after the 12 years expire? Can he still continue in that process?

**DELEGATE HOFSCHEIDER:** Being elected by the people, yes.

**DELEGATE MANGLONA:** So there is no actually term limitation set?

**DELEGATE HOFSCHEIDER:** True.

**DELEGATE MANGLONA:** Thank you.

**DELEGATE MARATITA:** Unless there are anymore questions, Chairman Hofschneider may continue.

**DELEGATE HOFSCHEIDER:** Section 5 provides for qualifications. It has two new qualifications, a five-year residency requirement and a requirement that the appointee

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**DELEGATE HOFSCHEIDER:** Section 5 provides for qualifications. It has two new qualifications, a five-year residency requirement and a requirement that the appointee

be a member of CNMI Bar.

We don't have to decrease the pool of lawyers that the Governor can choose. We have provided that the five years of residency can be done at any time. It does not have to be done immediately before the appointment.

**DELEGATE MARATITA:** Any questions?

You may go ahead.

**DELEGATE HOFSCHEIDER:** Section 6 applies for compensation. This is the same as in the 1976 Constitution, Mr. Chairman.

Section 7 --

**DELEGATE MARATITA:** Delegate Aldan.

**DELEGATE VICENTE ALDAN:** Chairman Hofschneider, when you say "provided by law," there is a uniformity in regulating the salary of other departments. It's usually through an advisory board.

When you say "provided by law," it seems like there is a case before the court and, you know, the legislature can, let's say, increase the salary of the judge for a judgment in their favor later on.

**DELEGATE MARATITA:** I would like to call on Justice Dela Cruz to explain that.

**MR. DELA CRUZ:** "As provided by law" means "as specified by the legislature." That's usually the term because we can't have a Constitutional Convention all the

time. I don't know whether Delegate Aldan is referring to having the court make case law.

**DELEGATE VICENTE ALDAN:** No. All through the sessions we've been discussing about an advisory salary commission, something like that. I was wondering whether that commission should be deciding the salary for the judges and not just the legislature. That's my question.

**DELEGATE MARATITA:** Can you respond since you are a judge?

**MR. DELA CRUZ:** The advisory commission would make a recommendation to the legislature. If the legislature adopts it, that would be something that would have to be enacted by legislation to bring it into play.

**DELEGATE VICENTE ALDAN:** That's what I'm asking.

**MR. DELA CRUZ:** Okay.

**DELEGATE MARATITA:** Just for your information, under the current Constitution, section 10, compensation, the advisory commission provides also for judiciary officers.

Delegate Sirok.

**DELEGATE SIROK:** My question relates to retirement, removal, or discipline. Who has the power to --

**DELEGATE HOCOG:** Point of order. We are discussing section 6. You are jumping ahead.

**DELEGATE SIROK:** Sorry.

**DELEGATE MARATITA:** Anymore questions on section 6?

Let's go to section 7, Mr. Chairman.

**DELEGATE HOFSCHEIDER:** Section 7, Mr. Chairman, provides for sanctions against judges. It is the same as the 1976 Constitution with one exception. There is a commission that is supposed for deal with complaints against judges.

In the past, the legislature has allowed the appointments to the commission to lapse. We have provided that if the legislature does not act to keep this commission operating, the Chief Justice can make a temporary appointment until the legislature acts. That's the position.

Now, regarding the retirement, it was discussed, but it was turned down by the Committee.

**DELEGATE MARATITA:** Delegate Sirok, do you have your question now?

**DELEGATE SIROK:** So you are going to create a commission?

**DELEGATE HOFSCHEIDER:** It's in the Constitution already, Delegate Sirok.

In the absence of appointment by the legislature, the Chief Justice shall make temporary appointments until the legislature acts.

**DELEGATE MARATITA:** Delegate Sirok, any further questions?

**DELEGATE SIROK:** No more.

**DELEGATE MARATITA:** Delegate Vicente Aldan.

**DELEGATE VICENTE ALDAN:** Thank you, Mr. Chairman.

I want to clarify how long the temporary appointment is? Is it one year? Two years? I mean, there should be a limitation.

**DELEGATE HOFSCHEIDER:** Under the present statutes, it's 90 days.

**DELEGATE VICENTE ALDAN:** So you are saying that the Chief Justice can continue re-appointing somebody or can continue that appointment for another 90 days and then another 90 days?

**DELEGATE HOFSCHEIDER:** Not really. We expect that the legislature should act on the appointment to the advisory commission.

**DELEGATE MARATITA:** It's under the Legislative Branch.

Go ahead, Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** Section 8 limits the political activities of judges. It's the same as what was in the 1976 Constitution with one exception. We decided that if judges want to run for office, they should declare their candidacy at least six months before the election. Once they declare their candidacy, whenever that is, they must resign. This may prevent the appearance of conflicts

of interest.

**DELEGATE MARATITA:** Any questions?

If none, you may go ahead. Continue.

**DELEGATE HOFSCHEIDER:** Section 9 deals with the administrative matters. The Chief Justice must issue an annual report. The Chief Justice must prepare an annual budget to be submitted to the Governor. The courts can provide for other administrative matters by rule.

**DELEGATE MARATITA:** Question, Delegate Sirok?

**DELEGATE SIROK:** Why is the Judicial Branch required to submit their budget to the Governor and not directly to the legislature?

**DELEGATE HOFSCHEIDER:** We have reviewed the proposed article. We have also reviewed the recommendation as per the Committee on Public Finance recommendation that all budgets, fiscal budgets, for the CNMI should be in uniformity and submitted to the Governor for balancing of budget purposes, in view also that other basic needs might be reviewed by the Executive with the consultation of the Judiciary.

That does not preclude the Judiciary from going directly to the legislature with their original submission.

**DELEGATE MARATITA:** Are you finished, Delegate Sirok?

**DELEGATE SIROK:** Yes. Thank you.

Delegate Hocog is recognized.

**DELEGATE HOCOG:** Mr. Chair, I would like the Committee on Judiciary to consider that in any appropriation measure the Governor, the Executive Branch, is identifying all the revenues.

Let's not forget there are three branches of government. I would like to give the opportunity, or the privilege, to the Judicial Branch to directly submit their budget to the legislature and treat them as one branch of government, as well, like the legislature and Executive.

I would ask the Committee to look further into how the Judicial Branch can directly do that without having firsthand-information of the resources to be appropriated to the Judicial Branch.

Thank you.

**DELEGATE MARATITA:** Delegate Tom Aldan is recognized.

**DELEGATE TOMAS B. ALDAN:** Mr. Chairman, is it appropriate to recommend or move for an amendment under section 9(b)?

**DELEGATE MARATITA:** You can suggest changes to the Committee which the Committee may take up. ,

**DELEGATE TOMAS B. ALDAN:** I would therefore suggest to the Committee, Mr. Chairman, to change section 9(b) to read:

"The Chief Justice of the Supreme Court shall submit its proposed budget to

the presiding officers of the legislature and shall provide a copy to the Governor for information purposes only. Further, the Governor cannot veto the appropriation for operations for activities of the Judicial Branch."

I would like to offer my justification for that, Mr. Chairman.

My fellow Delegates, the Republican form of government calls for three branches of the government, to wit, the Executive Branch, the Legislative Branch, and the Judicial Branch. Each branch has its own duties and responsibilities. The Legislative enacts the laws. The Executive administers and enforces the law. The Judicial Branch interprets the laws. Each is equal to the other.

The present language allows the Governor, the Executive Branch, to modify or cut the budget for the Judicial Branch.

Such power of the Executive Branch over the Judicial Branch serves three notices: One, that the Judicial Branch is at the mercy of the Governor; two, the judicial system, or the Judicial Branch, appears to favor the Executive Branch in interpreting laws because of fear of losing its funding; and, three, the Judicial Branch must play politics with the Governor to get what it wants in



terms of budget.

I hope you agree with me to maintain the integrity of the court the Judicial Branch must be afforded such liberty and opportunity in terms of budget.

There are no two ways about it. The legislative branch is given the authority to appropriate funds. As such, it is the legislative branch's duties to review the budget submission and to modify it, depending upon the priorities and justifications submitted by the Executive and Judicial branches. It's not the Executive Branch's duty to cut or modify budgets of the Judicial and Legislative branches.

Therefore, to subject the Judicial Branch budget to the mercy of the Executive and Legislative would be tantamount to a departmental judicial system. Search yourself, "Is this the way to treat one branch of the government"?

My fellow Delegates, I ask for your support and understanding of this amendment to maintain and preserve the uniqueness of our government. Treat them equal because they are equal.

Thank you.

**DELEGATE MARATITA:** Let's ask for the Committee take on that.

**DELEGATE HOFSCHEIDER:** Mr. Chairman, I'm thankful to

the speech of Delegate Tom Aldan, because I was in line with his remarks during the Committee hearings.

His Committee has unanimously approved that all budget submissions, regardless of what branch, shall be submitted through the Governor. And it was at that deliberation that the Committee voted in favor of this.

If you look at the Committee report, under section 9, the last paragraph towards the middle, let me just read it now, Mr. Chairman, for the clarity of the members.

"The Committee considered the option of having the budget presented to the Governor with the limitation that the governor could not change what the Chief Justice had submitted, but transmit it directly to the legislature.

"The advantage of this approach is that the Governor would be informed directly of the Judicial Branch budget and could take that into account in putting together a balanced budget for the entire government."

"The disadvantage of this would be that the Governor would be unable to balance the needs of the Judicial Branch

with the people of the whole CNMI in other respects, and to establish priorities in putting together a budget for the CNMI.

"The Committee decided that the budget should be presented only to the Governor with limitations for the purpose of putting together a balanced budget for the Commonwealth.

"If the Governor fails to transmit the Judicial budget to the legislature in the form in which it was submitted by the Chief Justice, the Chief Justice may elect to make a presentation directly to the legislature during its budget hearings, stating the position of the Judicial Branch on its original budget requests.

"The Judicial Branch is not bound by the decisions on its budget made by the Governor. The Legislature will give a fair hearing to both the Chief Justice and the Governor in making its final authorization and appropriation decisions. \*\*\*

"For this reason, the Committee does not believe the balance of the power between the independent branches is

affected in any way by having the Chief Justice submit the Judicial Branch budget to the Governor."

That's my explanation.

**DELEGATE MARATITA:** Delegate Aldan, does that reflect on his response?

**DELEGATE TOMAS B. ALDAN:** The issue, Mr. Chairman, was discussed. I was not a member of the Judicial Committee; however, I was present. I recommended the change. However, the one passed by the Committee did not reflect what I recommended.

I was there. I saw the vote. It was four to three. The vote was that the Governor can modify, essentially, cut the Legislative Branch.

**DELEGATE HOFSCHEIDER:** Clarification, Mr. Chairman. It's for balancing the budget only. That was the motion.

**DELEGATE TAITANO:** Not modifications.

**DELEGATE HOFSCHEIDER:** Not modifications.

**DELEGATE MARATITA:** Delegate Aldan made a recommendation that you --

**DELEGATE HOFSCHEIDER:** We will look into that, Mr. Chairman.

**DELEGATE MARATITA:** Delegate Manglona is recognized.

**DELEGATE MANGLONA:** Thank you, Mr. Chairman.

I have two concerns under this section. My

first concern is related to the concern raised by Delegate Aldan. What he just said is very true. We have to respect the separation of power, the Executive, the Judiciary, and the Legislature.

I strongly urge the Committee to look into these concerns seriously. We don't want to belittle our judicial system. I don't think there is anything from preventing them being a separate branch of government to present their budget directly to the legislature perhaps with information or budget only to the Governor. There is nothing wrong about it.

The reason I suggested that maybe he should provide a copy to the Governor is so that it will meet the concerns of other Delegates, you know, that the Governor is tasked with the job to package and formalize the budget that will be transmitted to the legislature.

I'm not too sure whether or not the judicial budget should not be protected from being vetoed by the Governor.

I would like to ask our counsel in this plenary session what the situation is in the states? Do the governors of the states veto, item veto, the judicial budget?

**MS. SIEMER:** Yes. In general, the legislature exercises its power over the judicial budget. The

legislature, in theory, could pass a zero budget with respect to the judiciary. There is a balance of power there. The Executive can veto the judicial budget.

For example, let's say, the judiciary decided to build seven buildings. The Governor thought that was a bad idea. He could veto that and send it back to the legislature. The legislature can always override the veto.

**DELEGATE MANGLONA:** Is that the case in all of the states or some of the states?

**MS. SIEMER:** I'm not sure that there is any state that allows an override. But most states do allow the Governor to veto and put it back to the legislature to override in the normal course.

**DELEGATE MANGLONA:** The other concern, Mr. Chairman, is regarding the assignment of judges to Rota and Tinian.

Under our present constitution, there is a requirement that at least one judge be assigned to these two islands. I wonder if this notation --

**DELEGATE MARATITA:** Delegate Manglona, we're discussing the budget. Unless Chairman --

**DELEGATE MANGLONA:** Are we under section 9, administrative?

**DELEGATE MARATITA:** Yes.

**DELEGATE MANGLONA:** This is under 9(c).

**DELEGATE HOFSCHEIDER:** There is a section for the

Chief Justice's assignment of judges to Rota and Tinian.

**MS. SIEMER:** It requires them to be assigned to Rota and Tinian.

**DELEGATE MANGLONA:** It requires it?

**MS. SIEMER:** Yes.

**DELEGATE MARATITA:** May we go ahead?

Any further questions on this particular section? If none, Mr. Chairman, you may go ahead.

**DELEGATE HOFSCHEIDER:** Section 10, this is a new section, Mr. Chairman. It deals with the session in office.

If there is a vacancy, the Governor has the power to appoint a successor. If the Governor goes not act, then the next most senior judge steps up and takes the office.

**DELEGATE MARATITA:** Any questions? None.

You may continue.

**DELEGATE HOFSCHEIDER:** Section 11 is also a new section. It allows the court to issue advisory opinions to resolve disputes between the Governor and mayors, the Governor and the legislature, and any other head of any other government agency or department.

The Committee believes it is important to have these disputes be decided quickly and quietly so they don't go on and on.

**DELEGATE MARATITA:** Any questions? None.

You may go ahead. Continue.

**DELEGATE HOFSCHEIDER:** There is a transition provision at the end of the attachments that makes sure that everything is continued when the new constitutional provision comes into effect.

**DELEGATE MARATITA:** Any questions?

**DELEGATE HOFSCHEIDER:** Mr. Chairman, that completes the report by the Committee on your Judiciary and Other Elected Offices.

I move, if I may, for its adoption.

**DELEGATE SAN NICOLAS:** Second.

(The motion was seconded.)

**DELEGATE MARATITA:** There is a motion for adoption of the report, a recommendation.

**DELEGATE CAMACHO:** Mr. Chairman, point of information.

**DELEGATE MARATITA:** You may state it.

**DELEGATE CAMACHO:** There is a recommendation or an amendment that the budget should go directly to the legislature with a courtesy copy to the Governor.

**DELEGATE MARATITA:** There is no motion on that.

**DELEGATE CAMACHO:** There is no motion?

**MARATITA DELEGATE:** No. It was just a recommendation that the Committee take up. There is just only discussion now.



As we go further with the introduction to the plenary session --

**DELEGATE MANGLONA:** Point of information.

**DELEGATE MARATITA:** Are you ready to make a motion on that?

**DELEGATE MANGLONA:** I have a point of information.

**DELEGATE MARATITA:** You may state your point.

**DELEGATE MANGLONA:** I'm sorry, but under section 2 of this bill there is a provision that the Governor will make the initial appointment. There is no mention about the legislature if they reject the appointment? Has the Committee looked into that?

**DELEGATE HOFSCHEIDER:** Yes.

**DELEGATE MANGLONA:** There is an ongoing dispute.

**DELEGATE HOFSCHEIDER:** There are --

**DELEGATE MARATITA:** Do you want to respond?

**DELEGATE HOFSCHEIDER:** Can I have Deanne respond to that, please?

**MS. SIEMER:** The process for the initial appointment would be as it usually is. The Governor appoints and the Senate confirms.

If there is a dispute that holds up the appointment during that time, the rules would allow the Chief Justice to make temporary appointments of judges to come in and sit on the so the court would have a full

complement of judges and would be able to go on.

**DELEGATE MANGLONA:** Perhaps I'm not making myself very clear. I'm not citing this because of the current situation.

If a judge is rejected by the Senate, can that same judge be re-nominated? As I understand the general laws apply to the Executive Branch, but there is no mention about the Judicial Branch.

**MS. SIEMER:** Under the current system, I don't believe there is any restriction on the Governor trying to reappoint and trying to convince the legislature that it made a mistake when it rejected the initial appointment.

**DELEGATE MANGLONA:** In other words, the same rules apply?

**MS. SIEMER:** There is no change in the rules for the initial term. The same rules apply.

The only change is in subsequent terms. In the current system, the Governor appoints for a subsequent term. Under the system that was advocated by the Committee, there is an election and the voters decide.

**DELEGATE MANGLONA:** It has to be addressed because I heard from our legal scholars, those legal people that are reviewing the laws, both our laws, federal laws and others, they said that once the Senate rejects a nomination, that that same person cannot be re-nominated.

Somebody said that they found cases that apply to the Executive Branch, but they don't find cases that it applies to the Judicial Branch.

**MS. SIEMER:** Maybe we can ask our former Chief Justice to help us with the question.

**MR. DELA CRUZ:** I don't have the answer to that at the moment. I don't know. It has to be researched.

We'll get back to the Convention as to whether there is a distinction between the Executive department appointments and gubernatorial appointment of judges and the effect of Senate rejections and resubmissions to the Senate. I don't have that answer.

**DELEGATE HOFSCHEIDER:** Mr. Chairman?

**DELEGATE MARATITA:** Yes.

**DELEGATE HOFSCHEIDER:** We'll take that into consideration for review.

**DELEGATE MARATITA:** Taken under advisement?

**DELEGATE HOFSCHEIDER:** Yes.

I recognize Delegate Tom Aldan.

**DELEGATE TOMAS B. ALDAN:** Point of information, Mr. Chairman.

**DELEGATE MARATITA:** State your point.

**DELEGATE TOMAS B. ALDAN:** The recommendation that I made, once the report is adopted, is it adopted as reported by the Committee, or is it adopted with the understanding

that the Committee will look into the proposed changes?

**DELEGATE MARATITA:** As it is recommended during this Committee of the Whole.

**MS. SIEMER:** The Committee will go back and look at the recommended changes.

The question before you is: Is what the Committee has done generally acceptable?

**DELEGATE TOMAS B. ALDAN:** I wonder whether the Committee can have a better direction if a vote on the issue is made so they -- so the Committee of the Whole is then served to the Committee chairman.

If it is in order, Mr. Chairman, I so move that the Judicial Branch budget be submitted directly to the legislature with an information copy submitted to the Governor.

(The motion was seconded.)

**DELEGATE MARATITA:** There is a motion and second to have the budget of the judiciary be submitted directly to the legislature with an informational copy to the Governor.

Discussion on that?

Delegate Hocog is recognized.

**DELEGATE HOCOG:** I assume, Mr. Chairman, the motion offered on the floor is to insert that in this particular report being adopted by the Committee?

**DELEGATE MARATITA:** That's the motion, yes.

Any further discussion?

Ready for the question?

All in favor the motion say "Aye."

Opposed, say "Nay."

Motion passed.

Let's go back to the main motion to adopt the report of the Committee on Judiciary on Article IV, the Judicial Branch, with amendments.

**DELEGATE HOCO:** So moved.

**DELEGATE MARATITA:** All in favor of the motion say "Aye."

Opposed, say "nay."

Motion carried.

**DELEGATE HOFSCHEIDER:** I move for a recess.

**DELEGATE MARATITA:** Mr. Floor Leader.

**DELEGATE HOCO:** Mr. Chairman, before you entertain any recess, I would like the Committee to resolve back to its plenary session.

(The motion was seconded.)

**DELEGATE MARATITA:** There is a motion to rise from the Committee back into plenary session.

All in favor of the motion say "Aye."

Opposed, say "Nay."

Motion carried.

Let's have a recess for five minutes.

**DELEGATE HOCOG:** I think you are out of order. It has to be the President to call the recess.

**PRESIDENT GUERRERO:** I guess we have a recess.

(A recess was taken from 12:05 P.M. to 12:18 P.M.)

**PRESIDENT GUERRERO:** The plenary session is called back to order.

We need to, perhaps, try to move as swiftly as possible. We still have the public hearing at 1:30.

I would ask for the indulgence of the members that we should move as fast as possible, perhaps, within 45 minutes at the most.

I would like to call on the chair of the Committee of the Whole to report.

**DELEGATE MARATITA:** Thank you, Mr. President.

In order to give a report of the Committee of the Whole, I would like to call on the respective Chair of the standing committee, Chairman Tom Aldan, to give a report on Article XXI on gambling.

**PRESIDENT GUERRERO:** Chairman Aldan, will you report on Article XXI, the revised one?

**DELEGATE TOMAS B. ALDAN:** Thank you, Mr. President.

The Committee of a Whole adopts the Committee's report on Article XXI on gambling.

There is only a minor change in the new language from the previous report, which basically deleted

the word "casino." The new language just says "gambling is prohibited."

Thank you.

**DELEGATE MARATITA:** I would like to call on the Chairman of the Judiciary Branch and Other Elected Offices, Chairman Henry Hofschneider, on Article IV on the Judicial Branch.

**PRESIDENT GUERRERO:** Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** Thank you, Mr. President.

Mr. President, I would like to report that the Committee of the Whole has unanimously adopted report No. 1, Article IV, on the Judicial Branch with an amendment.

That's all.

**PRESIDENT GUERRERO:** Thank you.

At this time, the three articles, Article VII, Article VIII, and Article XXI are ready for first reading.

I would like to entertain each one separately.

At this time, I would like to request the Convention Secretary, Delegate Gonzales, to please read Article VII, eligibility to vote.

**DELEGATE GONZALES:** The Committee met on Monday, June 12, to consider proposed amendments to Article VII.

**PRESIDENT GUERRERO:** Delegate Gonzales, where are you?

**DELEGATE GONZALES:** Article VII.

**PRESIDENT GUERRERO:** Read the amendment itself, not the report.

**DELEGATE GONZALES:** The deletion?

It basically deletes section 3, domicile and residence. The Committee decided the legislature has taken care of this constitutional provision.

**PRESIDENT GUERRERO:** Is there a motion to consider Article VII for first reading?

Delegate Aldan.

**DELEGATE TOMAS B. ALDAN:** I move for the adoption of Article VII, eligibility to vote, on first reading.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to approve the Article VII amendment offered by the Committee on Legislative Branch and Public Finance.

Discussion?

If not, may I have a roll call vote?

(The roll was called and the Delegates voted as follows:)

YES: Delegates Tomas B. Aldan,  
Vicente R. Aldan, Marian Aldan-Pierce,  
Frances LG Borja, Carlos S. Camacho, Esther  
Fleming, John Oliver Gonzales, Herman T.  
Guerrero, Victor B. Hocog, Henry  
Hofschneider, David Igitol, Jose Lifoifoi,  
Benjamin Manglona, David Maratita, Donald



Mendiola, James Mendiola, Felix R. Nogis,  
 Justo Q. Quitugua, Joe San Nicolas,  
 Teresita Santos, Bennet Seman, Marylou  
 Sirok, Mariano Taitano, Helen Taro-Atalig,  
 Juan S. Tenorio, Lillian A. Tenorio,  
 Joaquin Villagomez. (27 votes)

NO: (None.)

**CONVENTION CLERK:** Mr. President, we have 27 members  
 voting "Yes."

**PRESIDENT GUERRERO:** Thank you.

The proposed amendment to Article VII,  
 eligibility to vote, passed by 27 votes on first reading.

I call on the Convention Secretary.

**DELEGATE GONZALES:** The second proposed amendment for  
 first reading is to delete section 3 of Article VIII on  
 elections.

**PRESIDENT GUERRERO:** Delegate Aldan.

**DELEGATE TOMAS B. ALDAN:** I move to adopt  
 Article VIII on elections as reported by the Committee on  
 first reading.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded  
 to approve the Article VIII on elections on first reading.

Discussions?

If not, roll call, please.

(The roll was called and the Delegates voted as follows:)

YES: Delegates Tomas B. Aldan,  
 Vicente R. Aldan, Marian Aldan-Pierce,  
 Frances LG Borja, Carlos S. Camacho, Esther  
 Fleming, John Oliver Gonzales, Herman T.  
 Guerrero, Victor B. Hocog, Henry  
 Hofschneider, David Igitol, Jose Lifoifoi,  
 Benjamin Manglona, David Maratita, Donald  
 Mendiola, James Mendiola, Felix R. Nogis,  
 Justo Q. Quitugua, Joe San Nicolas,  
 Teresita Santos, Bennet Seman, Marylou  
 Sirok, Mariano Taitano, Helen Taro-Atalig,  
 Juan S. Tenorio, Lillian A. Tenorio,  
 Joaquin Villagomez. (27 votes)

NO: (None.)

**CONVENTION CLERK:** Mr. President, 27 members voted  
 "Yes."

**PRESIDENT GUERRERO:** Article VIII, section 3, the  
 proposed amendment to the Constitution, is approved by 27  
 votes on first reading.

Delegate Gonzales.

**DELEGATE GONZALES:** The final amendment is for  
 Legislative Branch and Public Finance is section 1,  
 Article XXI, on gambling, a prohibition, which states:

"Gambling is prohibited in the

Northern Mariana Islands except in any Senatorial district when approved in a popular initiative by the affirmative vote of two-thirds of the persons qualified to vote in that district. This article does not prohibit gambling activities in the Commonwealth to the extent authorized by law on June 5th, 1995."

Delegate Aldan.

**DELEGATE TOMAS B. ALDAN:** I move that we adopt Article XXI on gambling as reported by the Committee on first reading.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to adopt the proposed constitutional amendment for Article XXI on gambling.

Discussions?

If not, roll call.

(The roll was called and the Delegates voted as follows:)

YES: Delegates Tomas B. Aldan,  
Vicente R. Aldan, Marian Aldan-Pierce,  
Frances LG Borja, Carlos S. Camacho, Esther  
Fleming, John Oliver Gonzales, Herman T.  
Guerrero, Victor B. Hocog, Henry  
Hofschneider, David Igitol, Jose Lifoifoi,

Benjamin Manglona, David Maratita, Donald Mendiola, James Mendiola, Felix R. Nogis, Justo Q. Quitugua, Joe San Nicolas, Teresita Santos, Bennet Seman, Marylou Sirok, Mariano Taitano, Helen Taro-Atalig, Juan S. Tenorio, Lillian A. Tenorio, Joaquin Villagomez. (27 votes)

NO: (None.)

**CONVENTION CLERK:** Mr. President, all 27 members voted "Yes."

**PRESIDENT GUERRERO:** Article XXI, a proposed amendment Article XXI on gambling, passes by 27 votes on first reading.

**DELEGATE HOFSCHEIDER:** Mr. President?

**PRESIDENT GUERRERO:** Can you wait?

(Tape change.)

**PRESIDENT GUERRERO:** Thank you.

Delegate Hofschneider.

**DELEGATE HOFSCHEIDER:** I would like to request to the President to calendar Article IV for first reading at the next plenary session, Mr. President.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It will be done.

**DELEGATE HOFSCHEIDER:** Thank you.

**PRESIDENT GUERRERO:** There was no objection on the

floor.

**DELEGATE HOCOG:** Mr. President?

**PRESIDENT GUERRERO:** Yes.

**DELEGATE HOCOG:** I would like to ask the indulgence of the Delegates if we can to skip item 11 on the order of business so the Committee will be allowed to facilitate the public hearing for 1:30.

**PRESIDENT GUERRERO:** That's an excellent idea.

Delegate Tenorio.

**DELEGATE LILLIAN TENORIO:** I would like to say a few remarks under that section of our agenda.

**PRESIDENT GUERRERO:** Delegate Hocog is asking if we could suspend that section. Can I get a consensus from the Convention?

**DELEGATE HOCOG:** Mr. Chairman, let Delegate Tenorio say her piece.

**PRESIDENT GUERRERO:** Delegate Tenorio.

**DELEGATE LILLIAN TENORIO:** Thank you, Mr. Floor Leader. Thank you, Mr. President.

I wish to express my extreme disappointment with the proposed amendment to our rules to change the two-thirds to the majority requirement for the passage of proposals to just a simple majority.

We have already disposed of this issue on the very first official day of the Convention. We decided to

keep it in the rules, which were subsequently adopted in unanimously by the Convention.

When the first draft of our rules was issued, I, too, had reservations about the provision and raised a question during our first meeting with the Pre-Con Committee about the reason or intent of such a requirement.

I changed my mind subsequent to the response that I got from those Delegates who served on previous conventions. They said that this rule was essential to prevent hasty decisions from being made by insuring that ample discussion and debate on the proposals took place.

Delegates would be compelled to go around the Convention and try to convince others of the merits of their proposal. After all, someone pointed out, we are dealing with the Constitution, the supreme law of the Commonwealth, and any proposed changes should be made within such a setting.

We are ending our third week of official business. I had an opportunity to sit in several committee meetings. I'm quite impressed with what I've seen so far.

Sure, there are spirited arguments, but there is also camaraderie. Delegates are looking at issues and who introduced what.

I feel confident that a proposal which has merit and is good for the people of the Commonwealth will

not only meet the two-thirds threshold, but it will garner unanimous support.

I want to commend the chairpersons of the various committees for their professionalism and leadership. They have steered their respective committees through rough waters and have made tremendous progress.

Quite frankly, I'm not surprised in talking with many of the Delegates I experienced a common desire to work together in making decisions.

This sentiment was affirmed during our first week, as several Delegates made impassioned speeches about Commonwealth unity. If we say what we say is truly what we believe, then there is no reason why the two-thirds majority vote should be set aside.

There is another point I wish to bring up.

Many elder statesmen in our community have stressed the need to keep proposed amendments to the minimum. Our Constitution is not fundamentally flawed. It's a good working document which needs a little fine tuning, but not a rebuilt engine. A simple majority requirement is not an adequate deterrent to prevent the mechanics from fixing things that are not broken.

Therefore, I ask those of you who are considering voting for this proposed change to think again. Think hard and deep about the reasons why you are supporting

it.

Will it serve the public interest, or is your support based on selfish reasons? Selfishness has no place in this Convention. Sacrifice does.

Thank you.

**PRESIDENT GUERRERO:** Thank you.

Mr. Floor Leader.

**DELEGATE HOCOG:** Mr. President, I would like to again ask the indulgence of the members to go down to item 12 for our order of business.

**PRESIDENT GUERRERO:** Yes.

**DELEGATE HOCOG:** I would like to move for adjournment.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded for to adjourn.

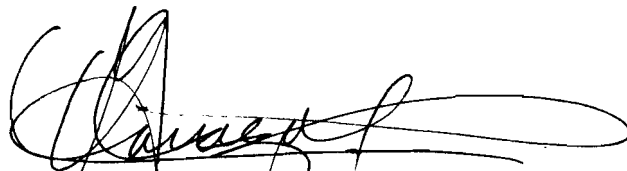
Those in favor of the motion, say "Aye."

Opposed, say "Nay."

Motion carried.

(The Convention adjourned at 12:35 P.M.)

Respectfully,



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Convention Secretary