

THIRD NORTHERN
MARIANA ISLANDS
CONSTITUTIONAL CONVENTION
DAILY JOURNAL

Forty-First day

Saturday, July 15, 1995

10:10 A.M.

PRESIDENT GUERRERO: The forty-first day of the Third Northern Marianas Constitutional Convention is called to order.

Please stand for a moment of silence.

(A moment of silence was had.)

PRESIDENT GUERRERO: Thank you. On preliminary matters, I would ask the members to turn on your mike if you haven't done so. Try to speak as closely to the mike as possible, so you can be recorded.

One other matter, for those of you that have expressed that you want to talk in the local vernacular, I suggest you do so. We are still going to have the 15 minutes rule before you yield the floor. I suggest if you speak in the vernacular, you summarize in English for the benefit of our court reporter so we have something for the journals because it might take a

while for the recording to be translated.

Con-Con clerk, roll call, please.

(Convention Clerk called the roll).

CONVENTION CLERK: Mr. President, we have 25 members present; two absent.

PRESIDENT GUERRERO: We have a quorum to conduct a session.

Floor Leader.

DELEGATE HOCOG: Yes, Mr. President, I move to adopt the Summary Journal of July 13th.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to adopt the Summary Journal for July 13. Discussion.

DELEGATE HOCOG: Yes, Mr. President.

PRESIDENT GUERRERO: Yes.

DELEGATE HOCOG: I believe the resolution that we passed regarding the nuclear dumping, the copy we received yesterday failed to address the concern of Delegate Vicente Aldan to include the Secretary General of the United Nations. So I would like the clerk to please reflect that concern prior to officially sending the resolution to the concerned parties.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Hocog.

Any other discussion?

If not those in favor of the motion say "Aye." Those opposed say "Nay."

Motion carried.

DELEGATE HOCOG: Mr. President, I would also like to move to adopt the Daily Journal of July 10 and July 11.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded that the Daily Journal for July 10 and 11 be adopted.

Discussion? If not, those in favor of the motion say "Aye." Those opposed say "Nay."

Motion carried.

Before we go on to number 5 on the agenda I would like the record to show that Delegate James Mendiola requested that, because he is not going to make it because his mother is seriously ill in the hospital, he is asking to be excused.

We go now to Reports of Committee.

The Committee on Organization and Procedures, the COP, has a very short report this morning.

The Committee on Land and Personal Rights

still needs to report on Article 12 on Land Alienation.

The Committee on Judiciary and Other Elected Offices still needs to report on Article 18 on Constitutional Amendment.

The Committee on Executive Branch and Local Government still needs to report on Article 6 on Local Government and Article 19 on Code of Ethics.

The Committee on Legislative Branch still needs to report on Article 10 on Taxation and Schedule on Transitional Matters.

The COP urges the committees to get these reports on the floor on Tuesday and Thursday of next week. We need to finish the first readings on Thursday if we are to stay on schedule to finish on August 4.

COP will publish a first reading Constitution on Monday which will contain all the language that we have passed on first reading to date so you can have an overview. We hope to be able to publish a completed Constitution on first reading by the end of our session on Thursday. This draft that we will put out Monday is just for the delegates.

We will want to discuss next week whether we put out an official draft for the public. Once we get

the first reading draft put together you will have an easy way of marking the sections you are concerned about without having to carry all the papers around that we have generated.

The legal staff is also putting together a draft legislative history that will contain material adapted from the Committee reports thus far. If you need additions to this legislative history you can use that document to keep track of them.

Finally, I want to note that the social subcommittee of COP will report on a picnic tomorrow and everybody should gather at 8:30 a.m. on time. Perhaps the social secretary, the unconstitutional social secretary that has been designated, can fill us in on this matter later on.

Thank you.

At this time I would like to call on the Committee on Land and Personal Rights.

DELEGATE LIFOIFOI: Thank you, Mr. President. Your Committee on Land and Personal Rights had extensive public hearings as well as Committee meetings, and the Committee requests that we place Article 11, Public Lands, on today's agenda for the Committee of the Whole. We are hoping for input from

the delegates, further input, so that we can incorporate it into the report for first reading hopefully by next week.

Thank you, Mr. President.

PRESIDENT GUERRERO: Thank you, Delegate Lifoifoi.

At this time I call on the Committee chair on Legislative Branch and Public Finance.

DELEGATE T. ALDAN: Thank you, Mr. President.

Your Committee on Legislative Branch and Public Finance has completed review of Article 10, Section 5, taxes and Section 6 deficit. We should be finished with this Article, I hope, by next week and hopefully report to the Convention early or late the following week, if not earlier.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Tom Aldan. I call on the chair of Executive Branch and Local Government.

DELEGATE NOGIS: Thank you, Mr. President, your Committee on Executive Branch and Local Government has done a draft in regard to the Article 3 and we are discussing Local Government. I would hope, Mr. President, that Article 3 will be included in the

Committee of the whole for discussion purpose for today. Thank you.

PRESIDENT GUERRERO: Thank you, Chairman Nogis.

I call on the chair of Judiciary Branch and Other Elected Offices.

DELEGATE HOFSCHEIDER: Thank you, Mr. President.

I am pleased to report that the Committee has nearly finished its work on the Education article. We would like to report briefly to the Committee of the Whole today on our approach so that all the delegates have time to think about it over the weekend. We invite delegates who have other views on this subject to attend our meeting on Monday.

We will be meeting on Monday at 9:00 a.m. and if necessary we will also meet late in the afternoon on the same day.

We will bring Article 15 on the floor at Tuesday's plenary session.

We are mindful of the president's request that the Committees get working so the Convention can finish its first reading on all articles. We think it will be most efficient if we explain our proposal today and finalize our work and report on Monday and bring it back to the Committee for consideration and report on

Tuesday. We have distributed the draft language we are working on and we have distributed a draft report. The report is not yet completed. We intend to add illustrations and examples so we can make clear how the decentralized system will work.

We will also have ready for the Convention on Tuesday our report on Article 18, Constitutional Amendment, and this is the last Article for which we are responsible.

Thank you, Mr. President.

PRESIDENT GUERRERO: Thank you, Chairman Hofschneider.

We are finished with reports of committees. We will move on to the introduction of proposed amendments.

Any proposed amendments to be offered on any proposed constitutional amendments that have passed first reading?

If not, we move on to motions and resolutions.

Any motions?

Yes, Delegate Tom Aldan.

DELEGATE T. ALDAN: Could I ask for clarification.

For proposed amendments, Mr. President, if you submit one and it is numbered are we going to deem it as introduced without introducing it on the floor?

PRESIDENT GUERRERO: Can I ask the legal counsel to respond to that?

MR. WILLENS: It seems to me with respect to delegate amendments it would be better if the process were followed that was set forth in the procedures that were circulated but there should be an announcement of the delegate amendment at the plenary session. I would suggest that delegate amendments would be fewer in number, I hope, than delegate proposals. They often will raise important issues and it might be useful for the delegates as a whole to know what delegate amendments have been proposed for consideration.

DELEGATE T. ALDAN: Thank you.

PRESIDENT GUERRERO: Yes, Delegate Villagomez.

DELEGATE VILLAGOMEZ: Mr. President, I inquired into this and I was informed if the delegate has a delegate amendment to the articles that have gone to the first reading, that delegate can introduce the amendment, once it is reviewed by the legal counsel at the respective committee level. If the respective committee rejected his or her amendment that Delegate

can bring it to the plenary session.

Is that a correct statement of the COP delegate amendment procedure?

MR. WILLENS: Yes, I think so.

PRESIDENT GUERRERO: Yes, that is in line with our rules right now, what you just stated.

DELEGATE VILLAGOMEZ: Thank you.

PRESIDENT GUERRERO: If it is not considered by the Committee, it is the prerogative of the Delegate to take it directly to the floor pursuant to Rule 46.

PRESIDENT GUERRERO: Thank you.

Any other discussion? If not, we move on to Unfinished Business. That is where we were.

Anybody still has any question regarding the memo on delegate amendments, proposed amendments, that was issued by the COP?

DELEGATE CAMACHO: Mr. President.

PRESIDENT GUERRERO: Yes.

DELEGATE CAMACHO: You mentioned you would have a draft of this amendment? Has it been circulated to the delegates?

PRESIDENT GUERRERO: What draft?

DELEGATE CAMACHO: I don't have a copy.

PRESIDENT GUERRERO: Everybody has a copy. It was

part of the package that was passed out. If you go through your daily packages that you get, I believe it went out three days ago, three or four days ago. It is part of the package from Tuesday or Wednesday.

Yes, Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. President, for allowing me to speak for the second time. I think the intent is good to streamline and expedite. We have a deadline of August 4th, but I think one of the problems, Mr. President, is that some of the Committee members are not showing up or coming in late, and as a result the Committee cannot meet on time or has to be delayed. I hope something can be done, maybe fine them \$5 for nonattendance or being 15 minutes late. Everyone is invited to come. We are a responsible body and time is very important.

If we are a lax in our rules, and I have seen it happen, we all know which committees are having problems with attendance. I don't need to say it. I think we need to stress to please come on time.

DELEGATE HOCOG: Mr. President, I support his comment but I would like Delegate Villagomez to say that on miscellaneous business.

PRESIDENT GUERRERO: Thank you.

DELEGATE HOCOG: I want the president to note that Delegate Villagomez will make that deliberation during the miscellaneous.

DELEGATE VILLAGOMEZ: I have finished.

PRESIDENT GUERRERO: He can elaborate and I can add to it later on. I would also like to point out and let the record reflect that Delegate Mariano Taitano has joined us for the session.

DELEGATE HOCOG: Mr. President.

PRESIDENT GUERRERO: Yes, Mr. Floor Leader.

DELEGATE HOCOG: I think we are finished with Item 8 on the agenda.

PRESIDENT GUERRERO: Yes, please.

DELEGATE HOCOG: I would like to make the motion to calendar for the Committee of the Whole the following articles: Article 3, Article 11 and Article 15.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to calendar for the Committee of the Whole Article 3, Article 11 and Article 15 for consideration.

Discussion?

If not, those in favor of the motion say

"Aye." Those who oppose say "Nay."

Motion carried.

DELEGATE HOCOG: Mr. President, I would like now to move to resolve into the Committee of the Whole to discuss the articles.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to resolve into the Committee of the Whole to discuss the three articles, Article 3, 11 and 15.

Discussion?

If not those in favor of the motion say "Aye." Those opposed say "Nay."

Motion carried.

DELEGATE HOCOG: Mr. President, before you appoint the chair the delegates would like to have a five minutes' recess. It is getting too cold in here.

PRESIDENT GUERRERO: Yes, before I do that, I appoint Delegate Lifoifoi to chair the Committee of the Whole.

We have five minutes recess.

Excuse me. Before we recess can you ensure that you have all the three articles in front of you so we don't have another recess.

DELEGATE HOCOG: Everybody has a copy,

Mr. President.

PRESIDENT GUERRERO: Make sure. Recess.

(Recess taken from 10:30 a.m. to 10:40 p.m.)

CHAIR LIFOIFOI: The Committee of the Whole will now come to order.

Before we proceed I would like to remind the delegates that it is all three articles that we are going to discuss. This is only for discussion purposes. None of these articles will be on first reading.

Is that okay?

DELEGATE HOCOG: Yes, Mr. President.

DELEGATE TAITANO: Yes, Mr. Speaker.

CHAIR LIFOIFOI: Now I would like to call on Chair Nogis for Article 3 on Executive Branch.

DELEGATE NOGIS: Thank you, Mr. Chairman. With the indulgence of the delegates I will read each section and whatever changes we want to make. I will go down the line. I hope the report is in front of them.

Under Section 1, Executive Branch. The executive power of the Commonwealth shall be vested in the governor who shall be responsible for the faithful execution of the laws. No objection?

Section 2, Qualification of the Governor.

The governor shall be a U.S. citizen qualified to vote in the Commonwealth, at least 35 years of age --

DELEGATE HOCOG: Privilege.

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCOG: Can we request the Committee chairmen reporting on articles to first, please, advise the members if there are changes made in the Committee rather than reading the whole item and probably the changes that the Committee made will be a concern to the delegates.

CHAIR LIFOIFOI: Delegate Nogis?

DELEGATE NOGIS: Yes, Mr. Chairman.

There are changes as to the original statement in the constitution on the qualification of the governor. We did include U.S. citizenship, and 35 years of age. The Committee decided that the governor should be a person who, in addition to all of the other required qualifications and attributes, would share the goals and aspirations of a U.S. citizen. The Committee did not believe the goals and aspirations of the relatively few local people who elected to become U.S. nationals rather than citizens under the Covenant of after termination of the Trusteeship Agreement would

consider themselves unfairly treated by this proposed amendment.

The Committee also recommends deleting the last sentence of Section 2 that precludes persons convicted of a felony from running for this office. The Committee is aware that a proposed amendment to Article 7 addresses this subject and would be generally applicable to all the elected offices in the Constitution as well as those appointed to offices subject to legislative confirmation.

CHAIR LIFOIFOI: Any questions?

Delegate Aldan.

DELEGATE T. ALDAN: I would like for the Committee to consider changing the ten years to seven years.

If I am in order I will make that into a motion; if not, I just recommend it.

CHAIR LIFOIFOI: Any second?

(The motion was seconded).

CHAIR LIFOIFOI: Discussion?

DELEGATE CAMACHO: Mr. Chairman.

CHAIR LIFOIFOI: Delegate Camacho.

DELEGATE CAMACHO: Can we get some explanation on what is the difference between ten and seven other than cutting it by three years?

CHAIR LIFOIFOI: Delegate Aldan.

DELEGATE T. ALDAN: I really don't mind the ten years. Maybe it will be better if we say that for anyone to run for the governor he or she must be of Northern Marianas descent. That is more protective. However, my understanding when the legal counsel explained this to the Committee is that the ten years is challengeable in the courts and the chance of losing is very good. So I don't want to approve a Constitution that is not going to be sustained in the courts.

DELEGATE CAMACHO: Thank you.

DELEGATE HOCOG: Mr. Chairman.

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCOG: I would like to address the concern to the the legal counsel. Is the ten years constitutional?

MR. WILLENS: It was our judgment, Floor Leader, under the recent decisions of the United States Supreme Court that ten years was a longer period of time than the Supreme Court, has sustained for state-wide offices in the United States. The governor is equivalent to a state-wide office and can be given a residency requirement that is the maximum permitted under United

States rules and interpretation of the Constitution.

We discussed this within the Committee and pointed out that the original Constitution in 1976 provided for a residency requirement for seven years. It was increased to ten years in 1985 and the proposal advanced by Delegate Aldan would reduce it back to seven years.

We think there is greater legal safety with respect to the seven-year requirement but the majority of the Committee concluded that ten years was appropriate and that if challenged and held unconstitutional the legislature has the authority under this section to adopt a lower period of residency to be consistent with any court decision.

So, as a legal matter there is more protection in seven rather than ten, but the delegates can choose to leave it at ten and adjust it if required in case of a court challenge.

DELEGATE HOCOG: May I continue, Mr. Chairman?

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCOG: Then Howard, the legal sufficiency to withstand court challenge that the governor be only of Northern Marianas descent, would that be challengeable.

MR. WILLENS: We think putting Northern Marianas descent in as requirement for Commonwealth office is clearly vulnerable on its face. We don't even regard that as a close legal issue. We have consistently advised the committees working on various provisions that they should not limit offices in the Constitution to those of Marianas descent.

That qualification simply operates as a discrimination against other U.S. citizens who are eligible to vote and live here and any such requirement in our judgment would be struck down by the courts.

DELEGATE HOCOG: Thank you.

CHAIR LIFOIFOI: Delegate Manglona.

DELEGATE MANGLONA: Mr. Chairman, I strongly support the retention of the ten-year requirement under Section 2 of this Article.

There has been a concern of many of our people that perhaps some day we will have a political imbalance in our Commonwealth because of the influx of people now coming in.

Also, I would like to call attention that the provision on immigration in our Covenant is now being questioned by Congress and for most of us that provision in the Covenant is presently protecting us in

terms of immigration. But once Congress takes away immigration, I am sure that we will be in a serious situation.

Inasmuch as there is fear that this may not be upheld in a constitutional test in the future, I would rather like to have the courage of retaining this and if it shall be turned down in the future, then this Section 2 also provides for a mechanism where our legislature can change it.

Once again, we must be cognizant of the fact that this is a growing community. We have a casino presently in operation in Tinian. In the next few years there will be more people in Tinian. There is also a plan of maybe having a casino on Saipan or maybe in Rota for that matter. There will be a tremendous fear that some day our immigration will be out of control. I strongly urge the delegates to please in, view of this concern, let's stick to the ten years and if somebody will test it and challenge it in the future let it be, and if it is turned down then our legislature will come around and put in whatever allowable time that will not be subject to challenge.

CHAIR LIFOIFOI: Let me recognize Delegate Camacho.

DELEGATE CAMACHO: (Statement in Chamorro).

Briefly I am urging the delegates to not only retain the ten years but also to ask the legal counsel to find some way to do it that will be constitutional; that will ensure that the chief executive of these islands is somebody of Northern Marianas descent. I know it has been mentioned as unconstitutional, but we have gone through this thing in the past whereby things are considered to be unconstitutional and then when it gets to court it becomes constitutional or the U.S. government -- if this kind of issue is some of the things that were explained to the CNMI residents in 1976 during the first constitutional convention or during the negotiation of the covenant, I am sure that the negotiators would have asked to make sure that the local people are protected.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Delegate Aldan.

DELEGATE T. ALDAN: Thank you, Mr. Chairman.

I think the best mechanism to address this is under "Eligibility to Vote." If we want challenge, maybe the eligibility to vote should be limited to Northern Marianas descent. Make it tough; make it 10 years or 20 years before anyone of nonCNMI descent is eligible to vote because it doesn't matter if you put

in ten years or seven years. It doesn't matter; if the U.S. Immigration comes in, it does not matter. We are talking about U.S. citizens. They don't need to go through immigration to be eligible to vote.

Sometimes we hear the phrase, "the price of progress." I think maybe, I don't know how in-depth it was discussed at the level when our political status was being negotiated. Maybe they forgot about what is going to happen 10, 15, 20 years from now. If it was included in the Covenant we wouldn't have any problem because the U.S. maybe would have agreed with it. Maybe it was addressed and the U.S. didn't agree with it. Maybe we forgot what was going to be our future and dictated the political status on what economic benefit we would get, and that overrode the protection of the people. But, again I go back to protect, let's say, the people from Tinian for being overvoted by the other U.S. citizens other than CNMI descent, Let's require a longer period of time to vote.

But I think we should be mindful that we unanimously, in fact 75 or 78 percent, voted to become a U.S. citizen, and, as such, I think we should adhere or follow the standards set down to us by the Supreme Court or other courts of competent jurisdiction that we

have to follow.

Thank you.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman.

I think we should all look at ourselves and think of ourselves as U.S. citizens. I have several things that I want to discuss to refute the statements brought up earlier against the seven years.

We should be proud of being a U.S. citizen. I will be proud to have someone in California come here and be the governor if that person cares to do things for the protection of the people, rather than having a Northern Marianas descent governor who will do bad things; who won't even care about the wishes of the people. So let's put away, Mr. Chairman, the political imbalance. The problem is our bicameral system of government. If we care about political imbalance, and it is going to come, we are going to feel it this coming election. There are 69 U.S. voters in Tinian. It is going to come. Tinian from Rota, Rota to Tinian. Coalitions are going to control political power, but maybe it is good.

Mr. Chairman, our function here in this Con-Con is to try to avoid lawsuits. We have an

opinion by our constitutional lawyer, Mr. Willens and the others. They are advising us that we may be sued. Are we going to sacrifice the people's money? Are we going to wait and let a U.S. citizen who wants to be a governor, a good guy, be discriminated against? Are we going to go to court and then the courts say it is unconstitutional and then we have to pay out of our money. The money here is limited. Let's use it wisely.

CHAIR LIFOIFOI: Delegate Taitano.

DELEGATE TAITANO: Thank you, Mr. Chair.

Mr. Chair, I am a proud U.S. citizen and a very proud Carolinian of CNMI descent. I feel, Mr. Chairman, that if Article 12 does not entitle U.S. citizens and other outsiders to own land in the Commonwealth, I also believe it is our inherent right to run our government.

So, in that matter, Mr. Chairman, I believe that denying any one who is not of CNMI descent to run for public office in the Commonwealth should be stated also in the Constitution. I believe as to the CNMI, the people of the Commonwealth should run their own welfare.

That is all, Mr. President.

CHAIR LIFOIFOI: Mr. President.

PRESIDENT GUERRERO: Thank you, Mr. Chairman. I am in support of amending and reducing to seven years. We have agreed to become United States citizens. We have voted for the Covenant. Section 304 of the Covenant states that the citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several states of the United States. Basically, if you start reading the analysis, other than the special provisions that we have garnered regarding land alienation, I don't think we can discriminate against other United States citizens, and that is the intent of that section. If we don't want to be United States citizens -- you know, we cannot have our cake and eat it, too.

It is important that we have respect; we have fought very hard for the Covenant. We fought very hard to be sure that our citizens are not discriminated against, those that are residing in the United States mainland, as well as ensuring that they are entitled to every benefit and that they are entitled to vote in the states. They are even entitled to vote for the president which we cannot do over here.

Those things are what we have exchanged in

the Covenant itself, certain rights. This provision of the Covenant requires mutual consent; so the United States cannot change that without our consent. This is a fundamental provision of the Covenant. We want our rights. If we go to the states, as a member of the American family we need to ensure that those rights also are extended to our citizens in the rest of the United States regarding running for public office. We have that right as we move to the states, and if we are not satisfied with this then I suggest that perhaps we should ask the governor to include this as part of the special representation issues, consultation issues between the United States and the CNMI. And if we can be exempted, so be it, this is something that we have agreed upon. We want the U.S. passports and yet we are basically saying that we want something like the FSM or the Freely Associated States. If that is our wish, if that is the kind of system of government we want, then perhaps we need to revisit that aspect and ask under Section 2 of U.S. Public Law 94-241, that we invoke that provision and talk about the political status between the United States and the CNMI, and if that is what we wanted, but I can assure you that the majority of the people in the Commonwealth will prefer to

maintain their U.S. passports than to have a different kind of passport.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCOG: Yes, Mr. Chairman. Again, both arguments contain merit and that is why we are depending on our legal counsel to give us the best advice. What this provision implicates is we are scared of political penetration from without coming here within the Northern Marianas.

Now, again, land alienation, can that argument be used for elected offices, to be of Northern Marianas descent? I would like to ask the legal counsel.

I understand, Mr. Chairman, that we opted to be a U.S. citizen but I don't think as a U.S. citizen we have all the rights of other U.S. citizens. If we do have all these rights, why wouldn't the U.S. Social Security give us the opportunity to get some money of what is paid in. I don't think that is fair also.

But what we are trying to do here is to have a unique government under the U.S. and if it could happen, I would like to have it. And, again, Mr. Chairman, I would like the legal counsel to

consider the argument of land alienation versus elected officials of Northern Marianas descent.

MR. WILLENS: Mr. Floor Leader, our considered judgment on that issue is that the protections set forth in the Section 805 of the Covenant were very specific and narrowly defined to meet the urgency and importance of protecting land in the Northern Marianas. Those who were present in the negotiations will remember the importance that was attached to preserving land for the local people. That issue was subsequently challenged, as you know, and upheld by the United States Court of Appeals for the 9th Circuit.

Every exception to the U.S. Constitution that has been incorporated in the Covenant has so far been defended and protected by the U.S. courts. Right now in the courts here in the Commonwealth the bicameral legislature is being challenged and being defended as consistent with U.S. law.

It is our judgment in response to your question that the courts would definitely not sustain any effort to expand 805 to deal with elected office. You cannot impose on other U.S. citizens these kinds of disabilities and discriminatory treatment as some of the delegates have spoken.

There is an historic trade here whereby the local people made certain concessions in order to achieve the benefits of U.S. citizenship, U.S. security, U.S. programs, U.S. funds, and that was a judgment that was worked hard on for several years. These issues were discussed back in the early 1970s and your leaders then made a political judgment as to the merit of the compromises reflected in the Covenant and the people endorsed that by an overwhelming majority. So I urge you to remember the kinds of protections that you have built into your own political system. You have aggressive and well-led political parties. You have a primary system or convention system to help you select who your candidates are going to be. You have strong family ties and traditions that no outsider can really ever penetrate. You have built a unique society here and a unique structure, and you have great potential for the future. I urge as you think about the issues, you focus on the narrow exceptions to the U.S. Constitution and build a better Constitution so you can achieve the objectives set out in the Covenant and the work of the first two Constitutional Conventions.

CHAIR LIFOIFOI: May I recognize Delegate Tenorio.

DELEGATE LILLIAN TENORIO: Thank you, Mr. Chairman excuse me.

CHAIR LIFOIFOI: One minute.

MR. ZIMMERMAN: I would like to offer a brief comment. There are two cases I think this group should be aware of when it deliberates. New Hampshire's seven-year requirement for governor was upheld in a case that went up to the Supreme Court. Missouri's ten-year requirement was declared unconstitutional. Those are the two main main cases on the subject.

The issues that you all have raised come up in many of these cases, and the justification that the courts have for imposing the requirement is not just mechanical but it is really an effort to deal with a lot of these issues in the manner in which Howard was just explaining. The courts basically believe there is a mechanism for making sure that, for example, only a chief executive that cares about the CNMI is elected and that is in the ballot box. The courts believe that the voters will not approve or vote into office somebody who really doesn't care about the jurisdiction; and so the basis for this rule is to allow the voters, allow the people, to decide. That is how the courts justify not freezing residency

requirements into extremely long periods.

CHAIR LIFOIFOI: Continue, Delegate Lillian Tenorio.

DELEGATE LILLIAN TENORIO: To add to what Bernie said, if a 10-year provision is challenged by a candidate and struck down by the court then that candidate will be allowed to run and, if he or she wins, will hold office. The legislature, in acting to set a different residency requirement, cannot retroactively disqualify that candidate. That is why I believe we should change this provision so it can stand up to constitutional scrutiny and not risk having it overturned later on.

At that time we will probably lose dearly when that happens.

Thank you.

CHAIR LIFOIFOI: Delegate Manglona.

DELEGATE MANGLONA: Yes, let me respond to some of the concerns. There was a concern that perhaps the founding fathers did not foresee some of these problems today. I want to say that I am proud that we had leaders in the past -- some of them have died; some of them are still alive -- that have foreseen this problem. That is why we fought vigorously to fight the

opposition of the United States government not to make U.S. Immigration law applicable here. We fought vigorously to make sure that we have our own local immigration law and we prevailed in that respect, and we are proud that because of that anticipation that is there in the Covenant.

Once again, this convention deals with an issue under the advice of our Attorney General that abortion is unconstitutional. I would like to tell this Convention that despite what I am told about the unconstitutionality of abortion I will vote against it because I believe in our culture that provision should be preserved in the Constitution. I would like to tell this Convention today and if that comes out for the second reading despite this advice, I will strongly support that to be in the Constitution and I hope fellow delegates will not change their minds because I heard argument today that we fear that if we put it in, it may be challenged. I want to make that very clear.

Secondly, yes, I am proud to be an American citizen and I am sure my children are also proud to be American citizens and I am sure all of our people are proud to be American citizens; I don't think we deny that. What we are arguing today is residency

requirement and I am willing to be challenged in my belief that I want to protect the Northern Marianas descent to the extreme. I am willing to be challenged to retain that 10-year provision in the Constitution. (Statement in Chamorro).

CHAIR LIFOIFOI: Delegate Mendiola.

DELEGATE D. MENDIOLA: (Statement in Chamorro).

CHAIR LIFOIFOI: Delegate Camacho.

DELEGATE CAMACHO: Thank you, Mr. Chairman.

(Statement of Chamorro) I want to translate what I just said.

Basically, on the issue of equality. I am the first elected governor and I traveled extensively in the union.

And I have observed how people treated other people, and I mentioned the famous expression that if you are white go ahead; if you are brown stick around, and if you are black, stay behind.

DELEGATE TAITANO: Stay back.

DELEGATE CAMACHO: Stay back.

Even in the United States, that is still in existence. And here we are defending equality. We cannot vote for the President of the United States. Is that equality? There are other major issues that we

are not entitled to.

It is sad that we, who are thinking basically of what we feel is necessary to protect our people in the future, are now being told that we have to do what some lawyers in the United States have indicated is unconstitutional. While I do not have all the money to throw into fighting all these cases, I still think that we should think primarily of what is good for our people now in the future.

That is why I not only support the ten years but also, if it makes it stronger in some way, not necessarily on this, to make sure that the future chief executive is retained for the people of Northern Marianas descent. Now, if another U.S. citizen wants to be eligible he can make himself a descent also by marrying someone local and maybe their children will be. Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Delegate Quitugua.

DELEGATE QUITUGUA: Thank you, Mr. Chairman.

Since this Article is just for discussion, I move to end debate and recommend that this section be referred back to the Committee and consider the comments put out.

(The motion was seconded).

CHAIR LIFOIFOI: Let me recognize Delegate Seman before I call for the question.

DELEGATE SEMAN: Yes, I am going to say my two cents' worth.

Yes, Mr. Chairman, thank you. We can always argue that unless one lives here for a long period of time he or she will not have enough understanding of the people, but I don't believe that because that sentiment does not guarantee good leaders.

The quality of leadership is not characterized by one's race but rather by one's conviction to do good for the people he or she serves.

It is a political reality that these days the elected officials can be determined by the size of ones family or the number of camaraderies or compadres, but with the changing composition of our society this scenario may change in the near future.

However, let us not deny our people the opportunity to choose quality not qualified people to be our leaders. I am proud of our people of CNMI descent, of our cultural heritage, but let not our fear --

CHAIR LIFOIFOI: Wait for a moment for the tape.

(Brief interruption.)

CHAIR LIFOIFOI: Delegate Seman.

DELEGATE SEMAN: My last, sentence, statement.

Let not our fear of other racial people dictate our desire for good government.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Any call for the question?

Delegate, Aldan, Tomas.

DELEGATE T. ALDAN: I would just like a clarification. I thought there was a motion. There was a motion to end debate and to refer to the Committee.

I think if it goes back to the Committee, the Committee has voted to retain the ten years. If we don't vote on the motion, the first motion, the Committee will have the same report; then we go back to the same thing.

DELEGATE HOFSCHEIDER: Clarification.

CHAIR LIFOIFOI: I call for the question.

Delegate Hofschneider.

DELEGATE HOFSCHEIDER: Yes. I just want to clarify. The history that will be put on this Committee of the Whole's deliberation will be given intact to that Committee, so I think it is in order to refer it back to the Committee.

CHAIR LIFOIFOI: What is the consensus of the delegates?

Delegate Aldan.

DELEGATE T. ALDAN: I would like to take a vote on it because there was a motion on it.

CHAIR LIFOIFOI: It was seconded.

DELEGATE T. ALDAN: Again, if it goes back to the Committee and is voted on again, the Committee will come up with the same thing. So maybe we should put this to rest and maybe the Committee can work on Committee reports or legislative history.

CHAIR LIFOIFOI: I call for the question for the last time.

Delegate Nogis.

DELEGATE NOGIS: Yes, Mr. Chairman I agree with Delegate Aldan's recommendation that we put it to a vote. This issue on this Article, I am sure will come up with the same result.

For once and for all let's resolve it and move on. Thank you.

CHAIR LIFOIFOI: The motion is to change from 10 to 7.

There was a motion and it was seconded. All those in favor say "Aye." All opposed say "Nay."

There is a question.

For the second time let's show hands. All those in favor of the motion raise your hands, please.

What is the motion?

DELEGATE HOCOG: The motion is from ten to seven years.

CHAIR LIFOIFOI: Those opposed?

CONVENTION CLERK: Could we have the hands raised higher and only one hand, please.

CHAIR LIFOIFOI: Roll call.

{The roll was called and the Delegates voted as follows:}

YES: Delegates Tomas B. Aldan, Marian Aldan-Pierce, Frances LG Borja, Esther S. Fleming, Herman T. Guerrero, David L. Igitol, Jose R. Lifoifo, Felix R. Nogis, Marylou Ada Sirok, Bernadita T. Seman, Mariano Taitano, Helen Taro-Atalig, Juan S. Tenorio, Lillian A. Tenorio, Joaquin P. Villagomez.

NO: Vicente S. Aldan, Carlos S. Camacho, John Oliver DLR. Gonzales, Henry U. Hofschneider, Victor B. Hocog, Benjamin T. Manglona, David Q. Maratita, Donald B. Mendiola, Joey P. San Nicolas, Teresita A. Santos, Mariano Taitano.

ABSTAINING: Justo S. Quitugua.

CONVENTION CLERK: Mr. Chairman, I have 14 members voting yes; 11 members voting no, one abstention, and one absent.

CHAIR LIFOIFOI: What the count again, clerk?

CONVENTION CLERK: The count is 14 members voting yes; 11 members voting no; one member abstaining and one absent.

CHAIR LIFOIFOI: The motion has been adopted.

DELEGATE HOCO: Mr. Chairman, can I move for a recess? I would like to caucus again.

CHAIR LIFOIFOI. Five minutes' recess.

(Recess was taken from 11:35 a.m. to 11:45 a.m.)

CHAIR LIFOIFOI: The Committee of the Whole will now resume its session.

DELEGATE HOCO: I wish to report on the caucus. We are ready to proceed promptly on the discussion without long debate.

CHAIR LIFOIFOI: Thank you. Chairman Nogis you may continue.

DELEGATE NOGIS: Yes, Mr. Chairman, to ensure that we expeditiously address each section would you allow me to just list those without any changes, and then move on the article itself?

CHAIR LIFOIFOI: Yes do so.

concluded that Section 8 (b) should expressly designate the Supreme Court as the court with the original jurisdiction to consider the questions of disability and vacancy addressed by Section 8.

CHAIR LIFOIFOI: Any questions? None. Proceed.

DELEGATE NOGIS: Section 9, the functions of the executive branch of government. As reflected by the numerous proposals on the subject, Convention delegates and the public at large are seriously concerned with the Commonwealth's failure to have an annual budget in place at the beginning of the fiscal year. The Committee is proposing several amendments to this subsection to deal with this problem.

First the Committee recommends that the governor be required to submit a proposed budget no less than three months in advance of the fiscal year involved. Based on the Commonwealth's experience under current legislation governing the budgetary process, the committee concluded that this mandated schedule would not impose an unreasonable burden on the governor and his advisers. At the same time, however, the Committee believed that giving the legislature ample time within which to consider the proposed budget would encourage the legislature to act in a timely manner so

DELEGATE NOGIS: With that, on Section 4 there is no change as far as the Committee is concerned. There should be a joint election of the governor and lieutenant governor.

CHAIR LIFOIFOI: Any discussion? None.

Proceed.

DELEGATE NOGIS: Under Section 5, Compensation. The Committee recommends deleting specific dollar amount from Section 5.

Section 6, Other Government Employment. There is no change under that section.

CHAIR LIFOIFOI: Proceed.

DELEGATE NOGIS: Section 7, succession of the Governorship and Lieutenant governorship. There is no change.

Section 8, Absence or Disability of the Governor. The Committee recommends deleting the language in Section 8 (b) that specifies the court in which a petition to declare a vacancy should be filed and substitutes a reference to the Commonwealth Supreme Court. Since this provision was written, the Commonwealth Supreme Court has been created and will be given constitutional status, if the proposed new Article 4 is approved by the people. The Committee

that any differences between the two branches of government could be resolved before the beginning of the fiscal year.

Second, the Committee recommends that the estimated revenues for the forthcoming fiscal year be based only on revenues to be derived from legislation already enacted. In discussions with knowledgeable officials, the Committee learned that the basing of estimated revenues on legislation not yet enacted complicates the legislature's prompt consideration of the proposed budget submitted by the governor. Such delays need to be avoided.

Thirdly, the Committee proposes what many may believe to be draconian sanctions in the event that the governor and the legislature do not collaborate and get the budget approved before the beginning of the fiscal year.

CHAIR LIFOIFOI: One moment.

MR. WILLENS: I think that is an earlier version of the report and that based on the discussion within the Committee the decision to have sanctions for the governor and legislature was struck. The Committee decided that when you were not there. I apologize to you.

DELEGATE NOGIS: I am sorry.

MR. WILLENS: The Committee decided imposing any sanctions on the governor and legislature if they failed to enact the budget on time was not an appropriate way to achieve the objective, so that particular suggestion was rejected.

DELEGATE NOGIS: With that correction, Mr. Chairman, I would wonder if you would allow me to go through some of the recommendations as far as the Committee is concerned.

CHAIR LIFOIFOI: You may.

DELEGATE NOGIS: If a budget is not enacted before the fiscal year begins, the committee recommends a modest change in the continuing resolution mechanism. If a balanced budget is not approved on time, governmental operations will continue on the following terms: 1. If the projected revenues for the new fiscal year are equal to or more than the fiscal year just ended, the budget for each agency receiving an appropriation occurring the fiscal year just ended shall be at the same level of funding for the new fiscal year.

2. If the projected revenues for the new fiscal year are less than the fiscal year just ended,

the shortfall shall be allocated on a proportionate basis to each activity funded during the last fiscal year. In making this calculation, the Committee proposes that all extraordinary or nonrecurring expenditures be subtracted from the appropriations for from the past fiscal year.

3. Each person authorized to expend public funds shall be responsible for operating within the level of fund funding authorized. The Committee recommends also that each person shall be held personally liable if they authorize expenditures without appropriate certification that funds are available for the specified purposes.

4. All revenues in excess of the amount of the last appropriation shall remain in the general fund until appropriated by the legislature.

The Committee concluded that this approach will prevent any undue reliance on the continuing resolution mechanism and will facilitate accommodation between the governor and legislature.

The Committee considered more draconian measures in the event a balanced budget was not approved before the start of fiscal year, such as denying payments of salaries to the legislators and the

governor or stopping all government operations until any impasse was resolved. The Committee rejected other extreme measures and decided to place its trust in the Commonwealth's elected officials to deal with this problem under these proposed amendments.

CHAIR LIFOIFOI: Let me recognize Delegate Gonzales.

DELEGATE GONZOLES: I have have two concerns. No. 1, with regard to the so-called modest changes to the continuing resolution provision, when I read this yesterday I didn't see any major changes from the current continuing resolution in use.

I for one, and I am sure perhaps others, see the continuing resolution as a problem. If we are to continue doing it as proposed here, I don't see any major changes that would allow or facilitate the guaranteed passage of budget for the year.

If we are to adopt this, I am concerned that this would still continue to give the agencies the authority to function and operate at the previous year's level. If someone can perhaps delineate or specify what is the change that would ensure a guaranteed budget? I have considered perhaps limiting funding to two agencies in case the budget is not

passed because of unnecessary impasse or political upheaval. I wanted to limit it to public health and public safety because for us to continue including all the departments and agencies, the continued resolution impasse will not be resolved and hence the continuing resolution will continue to be used as the political tool to unnecessarily delay passage of the budget. That is concern No. 1.

No. 2, it is says here on No. 3 the Committee recommends also that each such person shall be held personally liable. What does this entail? For what is the person liable? To pay back what he or she allowed? To be terminated or fired? What?

Thank you. I had two questions, please.

CHAIR LIFOIFOI: Delegate Tom Aldan.

DELEGATE T. ALDAN: Thank you, Mr. Chairman.

First to address the issue of just allowing two agencies, let's say, public health and public safety.

DELEGATE GONZALES: Yes.

DELEGATE T. ALDAN: Why are we willing to let other government employees suffer for lack of budget? The continuing resolution as presented provides that you spend at the level of the previous year and as a

result you have an to opportunity for the system to work.

Let's not penalize the innocent by sacrificing. Not only the employee but the immediate families. Maybe they can't pay their debts. Maybe they can't afford enough food to put on the table.

We have to be mindful that most of us live from paycheck to paycheck and, to have those employees who are not employed by the Commonwealth Health Center or public safety -- we also have the same needs. I hope Delegate Gonzales' understanding how the continuing resolution concept works. That is why we vote for our leaders. If you think they are not doing their job and play political games on the budget, make it hostage for political things, then vote them out the next election. Put in people who can, but let's not sacrifice the innocent for their failure.

What was your other question?

DELEGATE GONZALES: I was going to respond. My other question, I will respond if Mr. Chairman will --

DELEGATE T. ALDAN: No. I am not finished.

DELEGATE GONZALES: What does this entail? What does personally liable mean?

DELEGATE T. ALDAN: The way the language is

worded, if the person that is authorized to spend money under the appropriation act spent more than what was authorized, he or she will be liable to pay it back.

In other words, it acts as a deterrent for the expenditure authority to make sure that he or she expends within what is available. That is the cause basically of over expenditures. We all know of a confirming requisition. That is when you order things or purchase things without first having funds certified even in in any of the federal regulations. Purchase by confirming order is the responsibility of the purchaser, not the government.

DELEGATE GONZALES: Can I include in addition perhaps making more of a deterrent, termination from being a secretary? I know that has been discussed, but again I don't want essential public services to continue being manipulated or being delayed because of some unnecessary political upheaval or whatnot. I am just concerned. This is not any different from the continuing resolution and that is one of the concerns. I understand his concern that maybe we have to be mindful that we all live from paycheck to paycheck. The fact is we also have to be mindful that budget passage is one of the most if not the paramount

responsibility, fiduciary duty of the legislature. To not pass budgets -- that is what happened in the years from '92 to '95. -- I don't think there is an excuse for them to not pass a budget. It is tantamount to them not doing their job which is grounds for negligence. I want public services not to be distorted. I want them to be as continuous as possible and which then mandates that the legislature passes a budget instead of this continued resolution excuse.

CHAIR LIFOIFOI: Let me recognize Delegate Hofschneider and Delegate Hocog.

DELEGATE T. ALDAN: I would like to respond to that one, Mr. Chairman, so he will be satisfied with something.

In my opinion that is somewhat drastic. Why don't we delegates take a look at the recall provision. If you don't like what the legislature is doing, recall. That is the political process. You take them out.

Thank you.

CHAIR LIFOIFOI: Delegate Hofschneider.

DELEGATE HOFSCHEIDER: Thank you, Mr. Chairman.

I think one of the concerns that I want to mention has been mentioned by Delegate Gonzales. If we

are giving the governor 90 days, what about the legislature? Why wasn't it addressed that the legislature has so many days to pass a budget in the House and Senate. Why isn't it addressed that if the governor vetoes it, how long does the legislature have to pass the budget. During the period of our campaigning to become Con-Con delegates, a lot of us have addressed the fiscal responsibilities of our government. We are forgetting the fact that the same issue has been experienced in the past since 1992 for three years. It was very difficult time especially for the Guerrero/Manglona administration because there was no budget at all. Working for the school, it was difficult for the school to operate considering the fact that we have increased enrollment, demand for new teachers, demand for more money for the high cost of instructional materials. We must address the issue of fiscal responsibility under this section. We have to have a fiscal budget every year. We cannot rely on the continuing resolution concept. This is a concept, the same if not almost perfectly the same, as the continuing resolution concept. If we think about our departments' operations for the previous two years, the operation is not as effective as it should be today.

We have to have a fiscal budget every year, October 1st. If our good mother country the United States of America has a fiscal budget in terms of 500 million dollars, why can't a government like CNMI have one.

Let this portion of the Constitution identify a schedule for the fiscal budget for our governor and our legislature. We entrust them and we should give them the time and if they say 90 days, then 90 days is enough time. But when it comes to October 1st, let's have a fiscal budget. We say do not elect, or recall, elected officials. Look at how many elected officials have been elected since 1991 and are still on board. That is not a good reason. So let's think about the fiscal responsibility that we owe to the people of the Commonwealth. We campaign with that slogan. Let's give them that promise. Thank you.

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCOG: Yes, Mr. Chairman, I apologize I did not attend this meeting. For point of clarification -- the continuing resolution will take effect if the legislature did not pass a balanced budget for the next fiscal year, meaning to say the department can use the whole prior year's appropriation for that new fiscal year, if a budget is not passed by

the legislature; is that correct?

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: Under the new amendment Mr. Chairman it can only use the ending fiscal year budget under continuing resolution.

DELEGATE HOCOG: Yes, but my question, Chairman Nogis, was the whole amount from the prior year supposedly to be used without any cap percentage for the new year that the legislature has yet to enact a budget. Is the department restricted to use the entire quarter allotment if the legislature fails to pass the new fiscal budget? Was there a new restriction?

DELEGATE NOGIS: Mr. Chairman, let me refer that question to Delegate Aldan.

CHAIR LIFOIFOI: Delegate Aldan.

DELEGATE ALDAN: I would like to think the fiscal responsibility rests with the person who has the expenditure authority. If there is no budget, there is still a budget under the continuing resolution. Let's not forget that. There is still a budget; that requires that we live within the means of what we are given. I think the government itself is overgrown in terms of expenditures. Left to right. We go down the line and we know for sure that the governor or the

person having expenditure authority can reduce costs by sound fiscal management.

In terms of allotment, it will be the same process. There is now a law called the Planning and Budgeting Act, Public Law 3-68, which delineates all the responsibilities of the governor and the legislature.

Now, the concern that I am hearing, what if the budget is not passed. So what. There is a continuing resolution and if you are given \$10 to spend and allocate it on a quarterly basis, I beg of you to live within that means. I can sympathize with CHC, because of drugs maybe, but again let's be mindful of the political process we have here that we created. We have two bodies, two houses, and each senatorial district has a need, has a priority. If we have one house, this not will happen.

Consider, think about it and look at what is happening. Sometimes because we can't meet the need of a district or a precinct, the public is held hostage. Because they can't build a basketball court; they can't buy equipment for precinct 1 or precinct 4 and there is infighting among our representatives to this body, to the legislature.

The only way to change this system and make it expeditious is to have an easy recall. If you are not satisfied, if there is no budget, recall everybody, or you just recall the chairman of the fiscal or the ways and means or you recall the president or the speaker or the majority leader of each house.

Fiscal responsibility, we all know. If you have only a dollar, spend a dollar. Maybe what we need to do is provide that when a budget is absent, authorize the governor 100 percent reprogramming authority but, again, think about it. It might be you who is going to suffer. If the governor doesn't like Tinian, then he may reprogram the entire budget in Tinian and put it in Rota or Saipan. Think about it. Thank you.

DELEGATE HOCOG: If I may continue, Mr. Chairman.

CHAIR LIFOIFOI: Yes, you may.

DELEGATE HOCOG: I am not saying I disbelieve in the continuing resolution mechanism. My concern and its a living legend and evidence, Mr. Chairman, that on a continuing resolution, many departments complain because of the allotment there is from the prior year. There are departments that, under the continuing resolution, used to get \$1 and there are departments

with experience that \$1 was zeroed out to carry on the responsibility of the department.

My question on the continuing resolution is -- are the departments authorized to use the same level, same allotment process, during the continuing resolution without zeroing out other services in that department? That is my concern and we experienced that the past fiscal year. What I believe the Convention delegates want to see from the Constitution is to ensure that, if we continue the mechanics of a continuing resolution, how many days it allowed? Perhaps put a cap of 60 days to be under continuing resolution. Should the legislature fail to take action, either we propose that they don't receive their paycheck or we can say that the submission of the governor to the legislature of a balanced budget becomes automatic as the a budget for the fiscal year.

Those are the things that we like to correct. We are not saying that we don't like the present system of the continuing resolution. Mr. Chairman, many departments in the past experienced problems under a continuing resolution. We would like to put teeth in this. We propose 60 days of continuing resolution and have the legislature act. This is what

I think the delegates want to see to be sure that public service from each department are not hampered.

Thank you.

CHAIR LIFOIFOI: Mr. President.

PRESIDENT GUERRERO: Thank you, Mr. Chairman.

We hear a lot of arguments, Mr. Chairman, and the budget is one of the main issues and concerns, not just for the delegates, but for the general public.

How we can resolve this budget impasse? The legislature is our elected leaders sworn to uphold our Constitution and laws, and many times decide they don't want to uphold then.

A lot of times, the legislature, even if the budget has been submitted by the governor, they ignore it; they venture off and want to be a public auditor. They want to be an attorney general. They want to be a governor. They want to be judges at the same time. It keeps them occupied.

I agree with Delegate Hocog that perhaps something needs to be done to the continuing resolution. We are saying the governor needs to submit it 90 days prior to the new fiscal year. If the legislature fails to act within that timetable, then perhaps we need to do something. I would like to see

something that becomes a budget. If the legislature fails to appropriate the funds at the beginning of the fiscal year, then the governor's budget's taken directly to the people and within 30 days from the beginning of the fiscal year the people will vote whether to adopt the governor's budget or not.

That is making it a little bit drastic, Mr. Chairman, but it certainly is a solution. If our legislature doesn't want to do their job, then the people stand ready to do it for them. That is the democratic system and perhaps that is an option that we should look at to ensure that there is a budget for the Commonwealth; and not continuously go on with continuing resolutions. Because of infighting and lack of leadership within the legislature to ensure that a budget is passed by the legislature -- has got to be said that the people are tired of it. They have excuses up to the ying yang and something needs to be done drastically. We need to be innovative. Let's come up with something, Mr. Chairman, and ensure the public that public services and the needs of departments are addressed. We cannot just shut down the government because if we do that, the question is who is going to collect taxes and if nobody gets paid

then neither can the legislature have a session because their staff are not going to be paid. There are a lot of consequences from our proposals. There are a lot of good ideas, but taking it to the extreme is not very wise. We need to put our heads together and put forth something, but I like the idea that perhaps 30 days after the new fiscal year we pose the budget directly to the people.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Delegate Igitol.

DELEGATE IGITOL: Thank you, Mr. Chairman. I would like to center my discussion on section 3 the question raised by Delegate Gonzales.

I would like to believe that the spending authority is subject to criminal prosecution if it is spent more than what is authorized in the budget. The continuing resolution is a good tool for substitution of the legal appropriating of funds. The continuing resolution is also used to continue the operations of the government without jeopardizing the essential services to the public. I think the biggest problem here is the budget office allowing departments to advance allotments in the next quarter. If the departments are confined to their allocation for the

first quarter and they use it up the first quarter, they should wait until the second quarter. Most of the departments, in my experience, they go into the budget office despite the Department of Finance refusal to certify funds because there is no availability of funds based on the first quarter allotment.

But they continue to go to the budget office and the budget office allows an advance on the allotment, to use the second quarter allotment's allocation for the first quarter.

That is a big problem because when it comes to third quarter, we have used up the fourth quarter, for the whole year, and when it comes to the fourth quarter there is no money to use.

So if we have some language here, too, to curtail the budget office of initiating an advanced allotment, maybe this is a help also for the department. And for the question of the personal liability, there is Public Law 2-91. This is the office of public auditor. They have the authority to review and prosecute anybody, the governor, who has overspent, also for white collar crime. There is a mechanism to safeguard against overspending.

Thank you.

CHAIR LIFOIFOI: One minute, please.

(Brief pause).

DELEGATE MANGLONA: Thank you, Mr. Chairman.

First, let me say this. That throughout the deliberation I managed to follow the logic outlined by the distinguished Delegate Aldan and by following his fiscal logic, it led me to my conclusion that it will accomplish four things. It will not stop government spending. That is first. Second, limit excessive expenditures in our government. Third, it will avoid deficit spending. Fourth, it will guarantee that if there is additional revenue generated from these formulas that it will give the opportunity for legislature to have more money to appropriate for various programs and projects in our Commonwealth. Perhaps including CIP projects.

There was an argument that maybe there will be time when a particular department would not have enough money during the first quarter's allocation. I think in that situation, I am sure we can deal with our budget officer or the governor, so that for a department like public health or education or public safety for that matter, I am sure there can be an administrative decision that can deal with a special

unique problem by advancing perhaps the second or the third quarter spending to the first quarter if there is a need there. I think that provides enough flexibility to continue spending. So, again, I want to thank the delegates. I think the Proposal is very innovative and I think it is going to lead us to a considerable saving in the end.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman.

I think a lot has been said regarding this. That is very interesting information that the Committee can look at; however, we have deliberated on those on the Committee level and I think the incorporation of the continuing resolution to ensure that there is no over-expenditure of public funds, to also ensure that public funds under the continuing resolutions are based on actual collections, and that is what we want, are provisions in the existing budget act that address those. We should also consider the recall I put forward. Perhaps look at the budget act. There are provisions that require the attorney general or the governor to appoint a special prosecutor to prosecute the person, the government official who violated that. I will just cut it short. Thank you.

CHAIR LIFOIFOI: Delegate Quitugua.

DELEGATE QUITUGUA: Thank you, Chair, for finally recognizing me. I don't know if this is the appropriate section to comment on but since it talks about budget -- wherever we talk about budget it only affects the executive branch and does not affect the legislature. Now with the unique provision for the court, the courts also will get their budget without any interruption. I would like to bring this out as a recommendation, that perhaps if it is not appropriate in this section, but maybe in the Legislative Committee, that if the budget is not passed then the legislature also should be cut down from spending their annual funding, such as the official representation, travel, certain operations. They usually get their budget first; so they don't care about passing the budget for the executive branch. If it is appropriate, then I recommend that we take a look also at the legislature to cut back expenditures. Perhaps that will force them to expedite the passage of the executive branch budget.

Thank you, chair.

CHAIR LIFOIFOI: Delegate Tenorio, Lillian.

DELEGATE LILLIAN TENORIO: Thank you. If I had to

choose between continuing resolution versus the president's idea I choose continuing resolution any day. Our current budget problem stems from one single fact -- that our government has ballooned beyond the ability of our tax system to generate the corresponding revenue. And you take a look at where that growth took place. Given the executive branch's innovative and I say innovative in quotes budget for FY '94 and FY '95, the fiscally responsible thing to do is rely on continuing appropriations set forth in this section. Thank you.

CHAIR LIFOIFOI: Delegate Seman.

DELEGATE SEMAN: Maybe I will conclude this debate.

A concern about alleged hardship experienced by departments because of our continuing resolution budget is perhaps our developed perception to have more money every year.

There have been recommendations to have creative ways of finding sources for funding or creative spending. We should start focusing our imagination to create ways of reducing government expenses and learn to live within our means either reduce government spending or increase taxes because

we certainly don't want to mortgage our future. Thank you.

CHAIR LIFOIFOI: For the second time.

DELEGATE HOFSCHEIDER: Yes, and I hope somebody will second my motion.

Mr. Chairman, still something has to be done about fiscal responsibility. I understand the notion given by the delegates concerning continuing resolution, and I would like to just say the three Ps, political power penetration, is too humongous and continuing resolution its a political game. And then they come up later throughout the fiscal year for supplemental budget. And guess what. They add more FTE's for political power penetration.

Please, we have to put the language from the Committee report with some kind of deadline given to our good legislators to come up with passage of a budget for the governor. And I move to end debate.

(The motion was seconded).

CHAIR LIFOIFOI: All those in favor of the motion say "Aye." Opposed say "Nay."

Chairman Nogis.

DELEGATE NOGIS: Thank you Mr. Chairman. Under Section 9 (b) the Committee recommends the governor be

required to deliver an annual report in person before a joint session of the legislature.

The Committee decided, however, not to fix the date which the governor would present her report but to leave that to the parties involved so that the governor's report and the reports from the Washington representative and the chief justice could be coordinated in some useful manner.

DELEGATE D. MENDIOLA: Point of order.

CHAIR LIFOIFOI: State your point.

DELEGATE D. MENDIOLA: Mr. President, I would like the chairman to please explain what you mean by parties, the legislative, the executive or which other person or establishment. What do you mean when you said whichever party is involved?

DELEGATE NOGIS: We are talking about the governor, the Washington rep and the chief justice.

DELEGATE D. MENDIOLA: Thank you.

CHAIR LIFOIFOI: Please, Chairman, resume.

DELEGATE NOGIS: Thank you. Should I move on, Mr. Chairman?

CHAIR LIFOIFOI: Yes.

DELEGATE NOGIS: Section 9 (c) no changes.

Moving on to section 10, Emergency Powers.

The committee recommends the phrase "as provided by law" be deleted. The Committee is aware that since this language was added on recommendation of the 1985 Convention the legislature has failed to define the term calamity. The Committee believes that the term calamity should be defined in accordance with its customary meaning. The Committee recommends that the emergency powers granted the governor under this section should be used only in true emergencies. The governor should not exercise these exordinary powers in order to to address Commonwealth problems that no matter how serious they appear should be handled through normal governmental processes. The Committee also recommends that the governor be required to report to the legislature within 30 days after exercising his emergency powers under section 10.

CHAIR LIFOIFOI: Thank you. Discussion? If not, proceed.

DELEGATE NOGIS: Thank you, Mr. Chairman.

Under Section 11, attorney general. After hearing testimony at a public hearing from several former attorneys general, the Committee concluded that the office should remain an appointed one. However, in

view of the concerns expressed regarding the independence of the office and the need to have high quality candidates for the position the Committee makes two recommendations.

One, the Committee recommends that that residency requirement added by the 1985 Convention be deleted. The Committee agrees that the Commonwealth should have an attorney general who knows the community and can exercise the responsibility of the office with some sensitivity to traditions and histories of the Commonwealth. At the same time, however, the Committee is concerned the present residency requirement will exclude long-standing Commonwealth residents who were absent for educational or professional reasons in the period just before they might be considered for the position. The Committee believes that the governor should have the widest possible pool of eminently qualified candidates to choose from and that the legislature in the process of confirmation can determine whether the candidate nominated meets the professional and other needs of the position.

Second, the Committee recommends that the attorney general once nominated and confirmed can be removed only for cause. It is the intent of the

Committee that each governor should be able to have an attorney general of the governor's own choosing. In effect, this recommendation would mean that each governor would be able to appoint attorney generals who would then serve in the office until the conclusion of the governor's term unless the attorney general is removed for cause or resigns. As with other executive branch officials, the attorney general would submit a resignation at the conclusion of the governor's four-year term for the new governor to accept or reject. Providing this additional measure of security to the position may better enable the attorney general to withstand the occasional political pressure to tailor legal views to meet the immediate needs of the administration.

CHAIR LIFOIFOI: Questions? Delegate Hofschneider.

DELEGATE HOFSCHEIDER: I thought the residency requirement does not include continuous resident. I thought residency requirements could be -- like you stay here one year and go back four years, come back, practice four years and leave the island, those are counted toward residency requirements. Why are we eliminating that?

CHAIR LIFOIFOI: I refer that to legal counsel.

MR. WILLENS: The residency requirement for the attorney general was different from the other residency requirements that you are referring to. It required three years of residency immediately preceding appointment to the position. The Committee believed that requiring three years immediately preceding might deny Commonwealth lawyers the opportunity to serve as attorney general. You are correct that the Committee could and the Convention could still impose a residency requirement of three years but eliminate the immediately preceding language, but that is an issue to consider.

DELEGATE HOFSCHEIDER: The other question is this. I understand that the status quo at the moment is that any lawyer who practices two years in the mainland I believe without passing the Bar, the CNMI bar exam, is a member of the Bar. Is the attorney general required to pass the CNMI bar before becoming attorney general?

MR. WILLENS: There is no specific requirement in the provision.

DELEGATE HOFSCHEIDER: Why is it promoted in the report? Why is it that being understanding and knowledgeable of the traditional and cultural aspect of

the CNMI is emphasized in the report?

CHAIR LIFOIFOI: One moment for change of tapes

(Brief pause)

DELEGATE HOFSCHEIDER: I wish to be enlightened.

MR. WILLENS: Let's speak to that briefly. The idea is that the elimination of the residency requirement is not designed to encourage the appointment of attorneys general who don't know the community and are not licensed to practice here. The committee certainly believes any candidate for attorney general should be someone who is licensed or qualified to practice here. The Committee did not however require that, because some lawyers from outside the community who have practiced for many years in the states might be viewed as qualified candidates and could be admitted here shortly after they arrive. That is something for the delegates to consider whether you want to impose membership or any other requirement.

DELEGATE HOFSCHEIDER: I agree, Howard, if they are highly qualified in the states they should be highly qualified here, but I don't think that is a reason for not passing the CNMI bar immediately. That is only my concern. If an attorney general for the CNMI has to represent the Commonwealth government, they

have to have passed the CNMI bar exam.

MR. WILLENS: I agree with that.

CHAIR LIFOIFOI: Delegate Gonzales.

DELEGATE GONZALES: Yes, my concern focuses around the issue that was brought up by the distinguished Delegate Hofschneider from Tinian.

I brought up that same question with regards to the CNMI bar when the former attorney generals and current attorney generals were called in to testify at the public hearing which we had. Let me bring up a simple example that has been happening within the system. Assistant attorney generals who work for the A.G.'s office or basically attorneys who work for the government for two years are grandfathered to be practicing attorneys here in the Commonwealth. They don't have to take the Bar. Why should we require CNMI bar examination for private practicing attorneys and not the government? That basically cuts to the issue of being sensitive to the history, the traditions and the laws that govern the Commonwealth.

Why should we exempt one group of attorneys who are going to be working for the Commonwealth, be part of our government, yet allow or mandate others to take it, even including indigenous attorneys eminently

qualified indigenous attorneys from here yet they have to take the Bar exam. That is No. 1.

No. 2, here it says the Committee agrees the Commonwealth should have an A. G. who knows the community and can exercise the responsibilities of the attorney general's office with some "sensitivity to the traditions and history of the Commonwealth."

If we are to delete the residency requirement Mr. Chairman how can one face me with a straight face and justify that a person who we just brought in from somewhere off from the Commonwealth shores can exercise the responsibility of the office with some sensitivity of the traditions and history of the Commonwealth when that perhaps eminently qualified attorney general was not here? How can one say that person was sensitive to the Commonwealth history and traditions when he or she just got on board?

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: Mr. Chairman, such issues were deliberated at length within the Committee. The judgment that was given in the Committee was that we have the confidence that any elected governor would use discretion as far as somebody being a local who is aware of the local tradition and the laws of the

Commonwealth. The Committee decided more or less to leave it up to the governor. It will be a political issue and I would hope that any governor selecting an attorney general would ensure that such concerns are addressed in appointing the attorney general.

Thank you.

CHAIR LIFOIFOI: Delegate Mendiola.

DELEGATE D. MENDIOLA: Thank you, Mr. Chairman. I feel that the present requirement of the committee is not the way I personally would like it to be in the Constitution because I feel there should be a residency requirement and that the prospective attorney general be required to pass the CNMI bar. At present a lot of people, a lot of Chamorro people, could barely speak the language much less someone coming in from outside. Having to know the history and traditions of the CNMI, what is the guaranty that any CNMI resident knows the history and traditions when they have been away so long and a lot of them aren't able to track the history of the CNMI. They are not knowledgeable as to CNMI history. A lot of them do not even know the first 50 percent of the traditions of the Chamorro people or the Carolinian people.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Delegate Sirok.

DELEGATE SIROK: I want to remind my fellow delegates that laws are not consistently based on traditions and cultures. I also believe that to be a good attorney general you really do not have to know the traditions or the culture.

I am a firm believer, too, that I want the attorney general to be a member of the CNMI bar but there is a problem with that because the bar exam is administered twice a year in February and July. So imposing that immediately will be very harsh.

CHAIR LIFOIFOI: Mr. President.

PRESIDENT GUERRERO: Thank you, Mr. Chairman.

To secure the concerns that have been embraced regarding admission to practice in the Commonwealth, we should give that authority to the Judicial Branch to decide who should practice in the Commonwealth. That way if an attorney general is hired from the outside, as raised by Delegate Sirok, perhaps the court can give them temporary authority or permission to practice and at the same time start working towards getting admitted into the Bar. So I would like to give that authority to the judicial system. I don't know whether what we have passed under

the judicial system, whether that is in there, and if it isn't perhaps we should include that to give them exclusive authority and not leave it to the legislature. In the past, every time they tried to pass something to include the government attorneys, there always seemed to be a driving force in the attorneys working for the legislature that tended to take legislature out of it. So I would rather that we leave to it the discretion of the judicial system.

CHAIR LIFOIFOI: Delegate Aldan.

DELEGATE T. ALDAN: Thank you, Mr. Chairman.

I would like to ask the delegates for their open mindness to open it up and listen to the arguments that are going around, make a valued decision based on the arguments. Right now the governor can't appoint an attorney general because nobody in the Commonwealth wants the job and the person holding the present position as acting attorney general does not meet the minimum requirements. That came out very loud and clear during the public hearing. It is a difficult job, if not the most difficult job other than the governor himself. I have yet to see a case where the attorney general is called upon to defend a client based on customs and culture. I have yet to see one.

If there is one I really would like to see it. Point out the citation; I will make myself available at the law library to talk about it.

No. 2, all attorneys general are required to be a graduate of a law school in the United States and must have at least passed a bar exam in the United States. I agree with Delegate Sirok that laws are interpreted the same way wherever you are, especially here in the CNMI. Take a look at the education and other branches and other departments. Where is this requirement called for? Personally I would like to see it mandated for PSS, the commissioner of education. They are supposed to be in the forefront of teaching customs and cultures yet there is no requirement for residency. They can hire anybody from New York, California or Texas without any residency. They are supposed to be the guardian or the guys who would preserve through our children the traditions, cultures and customs and things like that. And to mandate the attorney general, I think is reducing the pool available for the governor to make an appointment. We all heard the testimony that our local people here who are in law practice don't want to leave that law practice for something as hazardous as the attorney

general. Let's be considerate and give the governor the opportunity to make an appointment based on a person or an individual he or she likes.

Thank you.

CHAIR LIFOIFOI: Delegate Dr. Aldan.

DELEGATE V. ALDAN: Thank you, Mr. Chair.

I sympathize with all the delegates, but I agree with some of their comments. I too do not like any double standard. The attorneys are actually fortunate that they are given the opportunity to be examined twice a year. As a doctor, you are only given the chance once a year and if you don't pass after the second time you may have to go back to residency. So if we held a high standard for Saipan like we did with the felony pardons, pardoning person with a felony, I think we should at least mandate that within the next two years if he is an attorney general he should at least pass the bar exam. Other states have different levels of standards. We in the Commonwealth also should have that level of standard.

In order to achieve what we want and in order for us to be convinced that an attorney general is working in our favor then let that document, the CNMI bar, be a standard that he has the qualification

without question that he can practice here in the Commonwealth. If we can impose those standards on our local or any practicing attorney in the Commonwealth not working for the government then it is equally protective of our people to impose our standard on our attorney general.

Let's not discriminate. Attorneys that are working for the private sector have to meet the CNMI bar, but that requirement is forgiven if you work for for the government. I hope the Committee on executive will take this into consideration and maybe come back with a workable draft.

And maybe we can continue on to the next section.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman. I will make it short. My concern is the attorney general. I would like to read a letter from Mr. Gregory Baka, Assistant Public Defender, to us dated June 27.

This is in reference to the great towel cases. "In April of 1995 three of the six mainland hired prosecutors in the criminal division, including the chief of the criminal division, had no prosecution

experience outside the CNMI." I wonder if that is why is we are losing some of the cases and why a Chinese lady stealing a towel is more important than a rape.

Also, Mr. Chairman, I am disgusted at the way the board settled the public school case. The settlement we have to pay is coming from the public. Also, the requirement of the budget act for the attorney general to appoint a special prosecutor if there is a misappropriation of government funds and I am not convinced of former A. G. Mr. Dick Weil's rational during the public hearing.

If there is a misappropriation they must initiate the process, investigate the case, if there is sufficient grounds for prosecution then prosecute the case whoever, the governor or the director of finance. Thank you.

CHAIR LIFOIFOI: Delegate Tenorio, Lillian.

DELEGATE LILLIAN TENORIO: Thank you, Mr. Chair.

I would like to speak to the residency requirement issue. I trust the governor will consider his nominee with great care and thought. A residency requirement is not a critical qualification as some of the delegates have argued. Now, should Howard Willens or Deanne Siemer, despite their impeccable impressive

educational and professional experience, including working for the Marianas Political Status Commission, the first Con-Con and now the third Con-Con, be barred from being attorney general of the Commonwealth because of the residency requirement? No. There is more to a good attorney general than being a resident of the CNMI. I wholly support the Committee's recommendation for deleting this requirement.

Thank you.

CHAIR LIFOIFOI: I think we now have enough discussion.

DELEGATE QUITUGUA: I was just going to tell you I think the delegates have enough discussion. Some of them are already turning their heads away from the speakers. I would like to move to end debate and proceed.

(The motion was seconded).

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: Under Section 12 Mr. Chairman the public auditor.

The Committee believes strongly in the concept of an independent public auditor as set forth in Section 12. The Committee is concerned, however, with the question of cost and duplication of auditing

services. Therefore the Committee made three recommendations.

First, the Committee recommends the deletion of the guaranteed annual budget for the public auditor adopted as a result of the 1985 Convention. The Committee shares the widely held view within the convention that such constitutional guarantees should be sparsely used. The Committee believes that the public auditor like other Commonwealth officials should be required to justify the office's expenditures in the course of seeking an appropriation from the legislature.

Second, the Committee recommends that the public auditor maximize the office's reliance on audits conducted by other private or public entities. The committee believes that the public auditor should exercise review and oversight authority over audits of government agencies agencies but should not seek to duplicate audits that meet basic professional standards. To the extent possible, the public auditor should use the services of private firms in conducting the auditing responsibility of the office. This means the public auditor should perform the audit through the public auditor's staff only if the public auditor

concludes that it is necessary or cost effective to do so. The public auditor does have important investigative responsibilities as well and the Committee intends that the public auditor attach the highest priority to these tasks.

Three, the Committee recommends amendments designed to ensure that this important office does not remain vacant or headed by an acting public auditor for an unrestricted period of time. The Committee concluded that no person should serve as acting public auditor for more than 90 days and that the legislature should be required to act on the governor's nomination of a candidate to fill the office on a permanent basis within 60 days after receiving the nomination. If legislature fails to act within this period the Committee recommends that the candidate is deemed confirmed. As contemplated by the Committee, the effect of these proposed amendments is that the governor would be required to submit a nomination within 30 days after the vacancy occurs and that the legislature would have 60 days to consider the nomination. If the legislature turns down the nomination, the Committee recognizes that the person serving in an acting capacity could continue to do so.

The governor would have to submit another candidate within 30 days and the legislature would have another 60 days to exercise its responsibilities with respect to the nomination.

CHAIR LIFOIFOI: Questions?

Proceed, Mr. Chair.

DELEGATE NOGIS: Thank you, Mr. Chairman. Under Section 13, the department of education, this specific agency is being addressed by the Committee on Judiciary and Other Elected Offices.

Section 14 is head of departments.

The Committee recommends amendments to ensure that the governor's nominations for positions covered by this section are promptly considered by the Senate and that the persons not serve as an acting head of the department for more than 90 days. The proposed amendments require the Senate to act within 60 days to confirm or reject the governor's nominee as head of an executive branch department. If the Senate fails to act within this period, the appointee shall be deemed confirmed. If the Senate rejects the candidate, the governor is required to submit another nominee within 30 days and the process continues until the position is filled. A nominee should not be permitted to serve in

an acting capacity for more than 90 days under this proposal. The governor would have to submit the nomination within 30 days after the nominee is designated and begins to serve in an acting capacity. The legislature would have to act within 60 days and the conclusion of that period, the nominee would either be deemed confirmed, because of senatorial inaction, or rejected. If rejected by the Senate, the candidate could no longer serve in an acting capacity and the governor would have to submit another candidate within 30 days. In order to avoid deadlock between the two branches of government, the Committee also recommends that a nominee rejected by the Senate cannot be resubmitted by the governor for nomination to the same position.

CHAIR LIFOIFOI: Question. Delegate Santos.

DELEGATE SANTOS: Thank you, Mr. Chairman. Allow me to direct you to section 14 the last sentence which reads: "The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth." By having the word "Commonwealth," is this to assume that it applies generally to all senatorial districts, that is Rota, Tinian and

Aguiguan, and all other islands that are within the jurisdiction of the Commonwealth? If that assumption is correct would it then be constitutionally safe to assume that resident department heads shall not only be answerable to the mayor who is the father in the local government but shall also be answerable to the governor who is the grandfather of the Commonwealth? If this assumption is not correct may I please solicit a better interpretation of the last sentence of Section 14 by the committee chair or our legal counsel, Howard.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Mr. Chairman, did you want to respond to that?

DELEGATE NOGIS: Mr. Chairman, there is only one governor within the Commonwealth. So I assume that is the case, but I give the floor to legal counsel.

MR. WILLENS: In my capacity as grandfather, I would like to take this matter under consideration and report back to you and the Committee when we discuss this section of local government further. It is a fair question and I would like to look at it further.

DELEGATE SANTOS: Thank you, legal counsel.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Mr. Willens, yesterday or

the day before in one of the committees there was a request to have the secretary of finance be removed only for cause. Is that here?

MR. WILLENS: You are correct. That did come up and I -- frankly.

DELEGATE VILLAGOMEZ: I don't see anything.

MR. WILLENS: I don't either. I don't remember. That may be just my oversight. I forget whether the Committee voted to accept that. I think they may have.

DELEGATE GONZALES: Yes.

MR. WILLENS: You have to assume this Section 14 would include a specific requirement that the head of the department of finance would be removed for cause.

DELEGATE VILLAGOMEZ: I am supporting it and want to be sure it is there.

CHAIR LIFOIFOI: Chairman Nogis continue, please.

DELEGATE NOGIS: Thank you, Mr. Chairman. Under section 15, the executive branch department, there is no change to that.

CHAIR LIFOIFOI: One moment. Delegate Santos.

DELEGATE SANTOS: Thank you, Mr. Chairman. Let me again direct you to Section 13: The legislature may reallocate offices, agencies and instrumentalities

among principal departments but, again, Mr. Chairman there was no mention of offices, agencies and instrumentalities that are not among the principal departments such as regulatory, quasi judicial and temporary agencies. If it is the intent of the Committee not to reallocate offices, agencies or instrumentalities, then may I please suggest to the Committee that they consider delegating such to the governor?

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: So noted, Mr. Chairman and maybe Howard can respond.

CHAIR LIFOIFOI: Mr. Willens.

MR. WILLENS: Maybe the concerns at this point should be referred to the Committee. This section was the subject of litigation as you know with respect to the executive order and the authority of the governor to reorganize agencies and I don't understand exactly what the concern is that you are expressing by your question.

DELEGATE SANTOS: Okay. Legal counsel says here the legislature may reallocate offices agencies and instrumentalities among the principal departments. What about those that are not considered under the

principal departments? Who has the authority to reallocate those departments? Would it be the legislature or would it be the governor?

MR. WILLENS: It is both. Under Section 15 the legislature always retains its authority to create departments and reorganize them consistent with the constitutional limitation that there be no more than 15 major departments. Under the reorganization authority, as discussed in the Committee at some length the governor has authority to reorganize and exercise authority subject to the additional approval of both houses of the legislature. The Committee did consider this as some length.

CHAIR LIFOIFOI: Delegate Igitol.

DELEGATE IGITOL: I was trying to raise a question on 14 before we move to 15. Since we are at the heads of executive departments, correct me if I am wrong or rule me if I am out of order, but the concern here, department heads, is there anywhere in this section or other section a prohibition on the department head serving on another board or commission that is a gubernatorial appointed position. The question or the problem here is that we had a practice of having someone in the executive department be

appointed to another area, which is gubernatorial appointed also. I don't know if that is wrong, but that is a heavy burden on the person to assume two appointed positions within the same government at the same level. Is there any provision here? If I am wrong please answer me.

DELEGATE NOGIS: Let me refer that to counsel, Mr. Chairman.

MR. WILLENS: I don't think there is any specific prohibition in Article 3 that deals with that issue, Delegate Igitol, and there is a proposal as you will see later in the Committee's report to eliminate the current section 21 that deals with boards and commissions. Let us take that back to the Committee and discuss it further in the Committee.

DELEGATE IGITOL: I just want to have the question discussed whether it is appropriate or not.

CHAIR LIFOIFOI: Delegate Dr. Aldan.

DELEGATE V. ALDAN: This is for our attorney, Counsel, Mr. Willens. Would it be appropriate to put that under Section 6 with other government employees, if that is discussed in the Committee?

MR. WILLENS: I looked at that section, too, Delegate Aldan. That is limited to the governor and

lieutenant governor. I think it is a matter of policy for you delegates to consider whether you want to impose such a restriction on all the heads of the executive departments or if you would rather leave it to the governor and Senate to decide whether a person ought to hold more than one job. It strikes me as a fairly unusual circumstance, but it is not a legal question. I think it is a political judgment for the delegates to consider.

CHAIR LIFOIFOI: Delegate Gonzales.

DELEGATE HOCOG: Privilege, Mr. Chair. I would like to move for lunch and reconvene back at 2:30.

CHAIR LIFOIFOI: Any second?

(The motion was seconded).

CHAIR LIFOIFOI: All those in favor of the motion say "Aye." Opposed say "Nay."

(Recess taken from 1:10 a.m. to 2:30 p.m.)

CHAIR LIFOIFOI: The Committee of the Whole will now resume.

Chairman Nogis. Continue on 16.

DELEGATE NOGIS: Thank you, Mr. Chairman. Section 16 the Civil Service has been considered by the Committee on Judiciary and Other Elected Offices.

Section 17, Public Services is deferred until

we conclude our discussion in regard to local government.

Section 18, the Executive Assistant of Carolinian Affairs, the Committee recommends maintaining the status quo.

CHAIR LIFOIFOI: Delegate Taitano.

DELEGATE TAITANO: Thank you, Mr. Chairman, with all due respect I wish to extend my appreciation to all the delegates.

Prior to the beginning of the Con-Con we heard a lot of talk about deleting this office as well as the indigenous affairs office. I wish to extend my sincerest appreciation for your sensitivity to Carolinian customs and culture; especially my appreciation is extended to my former boss, Mr. Tom Aldan.

Thank you.

CHAIR LIFOIFOI: Delegate Gonzales.

DELEGATE GONZALES: Can we go back to Section 15, some questions?

Section 15. Chairman Nogis in the second sentence "regulatory, quasijudicial and temporary agencies." Are these the autonomous agencies?

DELEGATE NOGIS: Yes.

DELEGATE GONZALES: Second question. The fourth sentence, the legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions.

This subsequent sentence says that the governor can reallocate it through executive order and then it has to be approved by both houses.

I was wondering, if the legislature is given the power to reallocate, does it have to go to the governor for approval, too?

CHAIR LIFOIFOI: Counsel.

DELEGATE GONZALES: You have to make this explicit here. Counsel.

MR. WILLENS: Let me clarify that. Yes. The legislature creates the agencies in the normal process of legislation which does require approval of the governor. So the legislature also has the power to modify or terminate those offices through legislation subject to approval by the governor. The establishment of executive branch agencies is a process of the usual legislative mechanism involving both the legislature and the governor.

DELEGATE GONZALES: Thank you, Mr. Chairman. That is it.

CHAIR LIFOIFOI: Delegate Dr. Aldan.

DELEGATE V. ALDAN: Thank you, Mr. Chair.

I would like to see in Section 18 an addition to the status quo. When you take Section 18 and Section 20 together, there is some duplication of processes, like promotion of educational and cultural programs to advance the knowledge and practice of Carolinian language. I believe the office of Carolinian affairs should have the power to educate Carolinians. Who else is best fit to educate Carolinians? Basically, Carolinians. Who else is best fitted to advance the knowledge and of practice and Carolinian tradition? Carolinians.

So, if you put that process under the Council for Indigenous Affairs, which I believe in our intention was especially to rehabilitate and advance Chamorro cultures. I hope that is one of its functions.

If you are giving that function to the Council for Indigenous Affairs, if the head of that office is Chamorro, most Carolinians probably would be speaking partly Chamorro and partly Carolinian. So I hope the Committee will look into that and hopefully we can eliminate any duplication of programs and make sure

that the right people are advocating the right tradition.

Thank you.

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: Mr. Chairman, with regard to the statement made by Delegate Aldan, most Carolinians will probably be speaking Chamorro. They do as it is now. So that is the present situation.

CHAIR LIFOIFOI: Let's move on.

Next.

DELEGATE NOGIS: Under Section 19, Impeachment, the Committee recommends deletion of this provision because all impeachment provisions in the Constitution are being consolidated in Article 2, Section 8.

Continue?

CHAIR LIFOIFOI: Continue.

DELEGATE NOGIS: Section 19, Retirement System, currently under Section 20.

The Committee recommends no change in Section 20 (a). Because of the widespread concern in the community regarding the financial integrity and adequacy of the Commonwealth retirement fund, the Committee concluded that expanded constitutional protection of the fund was required.

Mr. Chairman, do you want me to go ahead and read each subsection or just to ensure we move on, should we address any concerns they may have under retirement?

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCO: Yes, Mr. Chairman I would like to see if you can point out only the amendments that the Committee proposed to the sections of the current Constitution. But you can be excused from reading the whole if you only tell the delegates what is to be amended.

Thank you.

DELEGATE NOG: There are new sections to be included with regard to retirement. So I would have to go through each specific subsection in that case.

DELEGATE HOCO: Yes.

CHAIR LIFOIFOI: Let me recognize Delegate Taitano.

DELEGATE TAITANO: Thank you, Mr. Chairman if I may. On page 8, second paragraph, it says subsection B 3 sets a termination date for the special credit provided by the 1985 Convention to those members with 20 years of service. I believe we are talking about a five-year bonus in this section and I wish to recommend

the the Committee, Mr. Chairman, the other credits, service credits, be also stated in this subsection, specifically educational credits, military, over time and compensatory time hours should be deleted according to this section, on December 31, 1996.

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: Yes, Mr. Chairman.

As previously stated can we go per item just to make sure we are in line instead of picking a section out. If I could be permitted to go through each item to be sure we move on as the section comes up with changes, we will make the changes.

CHAIR LIFOIFOI: Yes.

Delegate Aldan, Tom.

DELEGATE T. ALDAN: I would like to recommend to the Committee, Mr. Chairman that we would like to the hear the consensus of the members. I have a short version that I would like the Committee to look at and I will take it up with the Committee rather than discuss it at this point in time.

CHAIR LIFOIFOI: Mr. Chairman.

DELEGATE NOGIS: If that is the case, Mr. Chairman, I would kindly request any other amendments under this subsection be submitted in

writing so whatever changes we make will do it all at once and then present it to the floor.

CHAIR LIFOIFOI: Is there a consensus of the members?

PRESIDENT GUERRERO: Majority.

CHAIR LIFOIFOI: Delegate Tom Aldan.

DELEGATE T. ALDAN: I thought the chairman would go down line-by-line and we will hear what the concerns are. I would like to raise my concerns with the Committee first.

CHAIR LIFOIFOI: Proceed, Chairman Nogis.

DELEGATE NOGIS: Thank you, Mr. Chairman.

As stated earlier under Section 20 (a) the Committee recommendations no changes. Section 20 (b) establishes the retirement fund as an autonomous public corporation of the Commonwealth, provides for a board of trustee and specifies that the board shall have the powers and duties set forth in the section and as provided by the law. The fiduciary obligations of the board are spelled out in Section 20 (b) (1), in order to emphasize the importance of managing the fund so as to ensure that fund members will ultimately receive benefits to which they are entitled.

Can I continue, Mr. Chairman?

CHAIR LIFOIFOI: Yes.

DELEGATE NOGIS: Sections 20 (b) (2) and (3) impose certain restraints on the legislature and the executive branch with respect to the fund. The Committee has concluded that the legislature and executive branch have from time to time increased the liability of the fund or sought to use its assets without soliciting the views of the board of trustees or considering the financial impact of their action on the fund's ability to meet its responsibilities. Section 20 (b) (2) obligates the legislature and the executive branch to obtain comments from the board of trustees before taking action that impacts the fund. This leaves the legislature and the executive branch free to take such action as they think appropriate with respect to the fund but offers an opportunity for the board's views to be considered in a timely fashion. The Committee does not intend to restrain the Commonwealth in any way from developing new and creative ways to attract government employees or enable them to invest their retirement funds.

Furthermore, from chairman Section 20 (b) (3) sets a termination date for the special credit provided by the 1985 Convention to those members with 20 years

service. This provision added an open-ended liability for the fund that has been a major concern for the board of trustees. The expiration date is December 31, 1996 except for those members of the fund who have accumulated at least three years of vesting service credit or payment by members.

CHAIR LIFOIFOI: Delegate Quitugua.

DELEGATE QUITUGUA: Just for clarification, Chair, is this vesting or vested service?

CHAIR LIFOIFOI: Vested service.

DELEGATE NOGIS: Vested. Yes, correction on the wording Mr. Chairman. I would like to refer the matter to Delegate Aldan.

DELEGATE T. ALDAN: This should read three years vested service because vesting service includes some of the nonbenefit compensation benefits like military and education. It should be three years of vested service which means contributing membership, to contribute for three years in order to vest.

CHAIR LIFOIFOI: Delegate Gonzales.

DELEGATE GONZALES: Point of clarification. Mr. Chairman, it says here the special credit is supposed to stop 12-31-96. Two questions: The first of which is --

CHAIR LIFOIFOI: One minute to change the tape.

(Brief pause).

Resume Delegate Gonzales.

DELEGATE GONZALES: Does this mean on December 31, '96 no new members are covered but the current ones have already been grandfathered?

Tom, I am asking.

DELEGATE NOGIS: Mr. Chairman, on this date those who have not been in three years will not be accorded the privilege in the language itself. Maybe Delegate Aldan can elaborate on that.

CHAIR LIFOIFOI: Chairman Aldan.

DELEGATE T. ALDAN: I would like to recall some of the concerns about 20 (b).

Maybe the counsel can address some of the concerns under this section.

During the Committee meeting Delegate Villagomez raised concern and I think the president at one time or another, if we constitutionalize the retirement fund itself and the duties of the board, does it limit the legislature upon approval by the governor to in fact terminate the program and if it does I would like to delete that provision. If you have been reading the newspaper, the governor adopted

changed in the retirement standards from a defined benefit to a defined contribution plan. That is exactly what I was trying to say during the Committee meeting. If we stop the legislature from amending the program in the future then essentially we would have a program that is outdated maybe and the benefit is too high and we need to reduce it just like what is happening with the Social Security system. They are extending the period of retirement from 62 to 65 to 67. I don't like to see that happen with the retirement plan. I would like to reserve that right to the owner, which is the government. Does counsel want to address that today or with the Committee?

MR. WILLENS: Let me just state that Delegate Aldan has highlighted the key policy issue for you to give the Committee some guidance on here today. The members of the Committee are very concerned about the retirement fund and anxious to preserve its integrity so it can honor its responsibilities. At the same time members of the Committee don't want so have too much detailed regulation in the constitutional provision because it will inhibit the Commonwealth in the future from, taking measures or reforming the plan in a way that might be constructive. So the Committee

deliberated at great length as to how to reconcile the desire to restrict the legislature and executive branch in some respects yet preserve their freedom to resize the program substantially in the future if that seems in the Commonwealth's interest. This is the product and I don't think anyone on the Committee is really satisfied with it and what we need here from the Committee of the Whole is some initial judgment as to whether you think the retirement fund should be treated in this detail in the Constitution or whether you think it should be substantially shortened and we should be looking for an effort to just perhaps have a few general principles set forth in the Constitution.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Mr. Chairman, I would like to recommend to the delegates that maybe in the interest of time we refer this section to the Committee to revisit and to give notice to everyone to have those members that have concern submit written concerns or oral comments, especially in view of Delegate Aldan's new Proposal. I see him and Delegate Taitano as the experts and support that we take a serious look at the fund in allowing flexibility to the legislative and executive branch and also to respect the integrity of

the fund especially for those that have a vested interest, so that one day you won't wake up and find there is no money. We have to allow the legislature some flexibility and I hear comments from everyone including Delegate Tenorio about earmarked fees. The president expressed concern, too, if the legislature can create the fund they can do something. I know even though counsel has done an excellent job, at this time I think it needs to be revisited at the Committee level rather than here because we will just be going around in circles.

CHAIR LIFOIFOI: Mr. President.

PRESIDENT GUERRERO: Thank you, Mr. Chairman. I agree with Delegate Aldan and the proposal by Delegate Villagomez. Mr. Chair, sometimes no matter how good a system is, the liabilities on the part of the government will increase. One doesn't have to look very far in terms of what could happen if the livelihood of the government keeps going up. First of all, we need to look at the U.S. Social Security system. It is a big burden on the United States. I am afraid that sooner or later the government cannot meet its obligations and then we are going to have problems; then perhaps it is going to start earmarking a little,

10 percent, 20 percent, 30 percent, 40 percent, 50 percent or more out of its budget to meet the obligations and commitments under the retirement system. We have to be very cautious about this. We want to ensure also that perhaps five or ten years or 20 years down the line there might be another way of handling this that would be less of a burden to the government and I would like to have that flexibility be given to the legislature. So I agree that this is an area that we need to look at seriously whether we want to be so restricted that when we have problems and neither the legislative nor the executive branch can handle or deal with it. Nobody wants to pay more taxes. We have other committees entertaining this. They want to make it even more difficult to impose taxes. We even make it very difficult to pass gambling and that is another problem.

If and you are not going to find additional resources to tap, you are going to have problems with the system. No matter how good a system we have, eventually it is going to catch up. Whether we want to admit it now or five, ten years or 20 years from now, it is still going to happen. So I seriously urge that this matter be taken up again by the Committee.

Perhaps we need to simplify the language in here and leave most of the details to the legislature. We hope they have better judgment and better wisdom in dealing with this problem. Thank you, Mr. Chairman.

Delegate Tom Aldan.

DELEGATE T. ALDAN: In looking at the language that is going to be in this Constitution, I see a page and a half.

If you look at my proposal it is half a page because I am proposing to delete B 1, B 2, B 3 and also others.

So I don't know. Maybe it is better that I put up my proposal and let the members hear it and see whether they agree with it or do you want to wait until we go through the Committee?

CHAIR LIFOIFOI: Delegate John Tenorio.

DELEGATE J. TENORIO: Chairman, I move Section 20 on retirement go back to the Committee.

(The motion was seconded).

CHAIR LIFOIFOI: Any discussion? Chairman Nogis.

DELEGATE NOGIS: Thank you, Mr. Chairman. In the interest of time, Mr. Chairman, can we go with Delegate Tenorio's recommendation and put it back to the Committee.

However I urge all delegates who have any concern regarding the item, please submit a written comment and also participate in the Committee meetings. So once and for all we will move on this. Thank you.

CHAIR LIFOIFOI: All those in favor of the motion say "Aye." Opposed? Referred back to the Committee.

PRESIDENT GUERRERO: Point of clarification, Mr. Chairman.

CHAIR LIFOIFOI: Mr. President.

PRESIDENT GUERRERO: Mr. Chairman you know the Committee report says Section 19, and the actual language is Section 20. Which is the correct one.

DELEGATE NOGIS: Section 20, I believe Mr. Chairman.

DELEGATE LILLIAN TENORIO: No, 19.

DELEGATE HOCO: I apologize for the president being misinformed of the section, but we will take care of it.

CHAIR LIFOIFOI: Chairman Nogis, let's proceed.

DELEGATE NOGIS: Thank you, Mr. Chairman, on the next two items, Mr. Chairman, current Section 21 on boards and commissions and the current Section 22, women's affairs, the Committee recommends that they

both be deleted from the Constitution.

CHAIR LIFOIFOI: Questions?

Proceed Chairman Nogis.

DELEGATE NOGIS: On the current Section 23, with regard to Resident Executive for Indigenous Affairs, the committee recommends it be deleted; however, it will be replaced by a Council for Indigenous Affairs which would be Section 20.

Should I continue?

CHAIR LIFOIFOI: Yes.

DELEGATE NOGIS: Mr. Chairman, shall we go through each item in regard to the Council for Indigenous Affairs?

CHAIR LIFOIFOI: No, not necessarily.

DELEGATE NOGIS: We have had a lengthy discussion with regard to this. I hope that members have a copy of it. It outlines the roles, duties and responsibilities of the council itself.

CHAIR LIFOIFOI: Delegate Lillian Tenorio.

DELEGATE LILLIAN TENORIO: Are we going to be discussing it subsection by subsection or are we going to be allowed to voice our concerns on whatever?

CHAIR LIFOIFOI: Floor Leader.

DELEGATE HOCOG: Mr. Chairman, I would like to

move this section back to the Committee also

(The motion was seconded).

CHAIR LIFOIFOI: Chairman Nogis.

DELEGATE NOGIS: In line with that, Mr. Chairman, I would like to make the same request that any written concerns be submitted to the Committee so we can move on with this matter.

CHAIR LIFOIFOI: Are there any concerns?

DELEGATE LILLIAN TENORIO: Yes.

CHAIR LIFOIFOI: Delegate Tenorio.

DELEGATE LILLIAN TENORIO: I just have two things. One is on subsection F regarding the budget. I don't see any reason why the council should be exempted from the regular budgetary process. I would like the Committee to take a look at that. If the judiciary is required to have their budget approved by the legislature, then the council which is a part of the executive branch and not a fourth branch of government should comply with the budgeting act just like any other entity. There is a need to dovetail this provision with a corresponding section in Article 11, so this has to be discussed with the Committee on Land and Personal Rights.

Thank you.

CHAIR LIFOIFOI: Questions?

DELEGATE HOCOG: So noted, Mr. Chairman.

DELEGATE NOGIS: With that, Mr. Chairman that concludes our report on Article 3.

CHAIR LIFOIFOI: Thank you.

(Applause).

DELEGATE D. MENDIOLA: I would like to congratulate Chairman Nogis and Delegate Aldan for thoroughly going through this long draft for today's plenary session.

Thank you.

CHAIR LIFOIFOI: Now on Article 11, Public Lands. I would like to call on Vicechair Marian Aldan-Pierce.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chair. I move to adopt the report on the Committee of Land and Personal Rights with respect to Article 11, public lands.

(The motion was seconded).

CHAIR LIFOIFOI: Discussion?

Vicechairman.

DELEGATE ALDAN-PIERCE: I would like to explain the committee's recommendation. First we recommend we go back to the provisions of the 1976 Constitution with respect to a separate government entity to control land

matters. That entity used to be called the Marianas Public Land Corporation. We think it would be useful to change the name and the one we have tentatively selected is Marianas Land Bureau. We are open to other suggestions for names. We think it will be useful to have a fresh start with a new name and some new rules for the problems that have arisen in the past. I am going to focus on the principal changes that we have made because I know that most of the delegates know quite a bit about land matters and they will be able to see right away what is new in this provision. And I would like to go section by section.

Section 1, this is the identification of public lands, and it is basically the same as the 1976 provision. There should be no questions about this. It just identifies and conveys the public lands.

Section 2, this section deals with submerged lands and it, too, is the same as the 1976 Constitution.

Section 3, this section is new. The Committee recommends that some lands on each of the islands be set aside in permanent preserves. This is the only way that land will be available for the enjoyment of future generations. The Committee has

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appointed a subcommittee to define the precise lands to be set aside in preserves and will report further with respect to this.

The Committee asks the Convention to approve this concept in principle subject to further definition when the subcommittee finishes its work. The Committee also seeks input from all delegates as to the precise lands that be should included in the preserves.

CHAIR LIFOIFOI: Questions?

Floor Leader.

DELEGATE HOCOG: I would like to ask Madam Chair, to advise us for how long a period this preserve land is to be kept before it is used by our future generations.

DELEGATE ALDAN-PIERCE: It is forever.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman. Although I am not a member of the Committee, I am actively participating in the subcommittee that is headed by Joey San Nicolas together with members Benjamin Manglona and John Gonzales.

The Committee will be meeting this coming Tuesday at 5:00 at the MPLC main office.

We had preliminary meetings last Friday and

at that time we had the land and natural resources people, the parks and MPLC and CRM people and we will continue the discussions. We invite you to be at the meeting. I think it is premature now to explain the concept because the Committee will make a formal report by Wednesday. The subcommittee will make a formal request to the Land Committee.

CHAIR LIFOIFOI: Proceed Madam Vicechair.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chair. Section 4, this section is an adaptation of former Section 3. It provides that the preserves and the remainder of the public lands are the responsibility of the Marianas Land Bureau.

I am going to lump Section 4 and 5 together because I think it will be easier to do it that way.

On Section 5 (a). This provision deals with the governance of the bureau. A limit of two terms is imposed. The term limit will not affect the new bureau because as a new agency there will be no directors served who have two terms.

Section 5 (b), this provision deals with the qualifications of the directors. A new requirement has been added that all directors must come from the private sector. The Committee recommends this

requirement as a balance against the viewpoints of senior government employees who staff the bureau and as a means of infusing the necessary top management talent for the bureau.

Section 5 (c). This section is the same as 4 (d) of the 1976 Constitution.

5 (d) is the same as Section 4 (e) of the 1976 Constitution with the added proviso that the annual report must be delivered by the chair in person to a joint session of the legislature.

Are there questions on Section 5?

CHAIR LIFOIFOI: Questions.

Mr. President.

PRESIDENT GUERRERO: Yes, Mr. Chairman, I want to find out first if, in Section 5 (c), the bureau shall have the power available to a corporation under the Commonwealth law and shall act by only affirmative vote of a majority for the directors.

If only five members show up, three is a majority. If it only requires that three members shows up, can they still take action, I want all members there. So you will compel those that are not there to show up for them to take action. So if a simple majority only shows up, not only two persons can make

the decision but the presence of all the members will be required to vote on it?

Can I get a clarification on this one?

MS. SIEMER: Yes, Mr. President. Current corporation law in the Commonwealth provides that majority can act and you are quite correct; a majority is three and, therefore, two out of the three can act under the law.

But this provides for a majority of the directors to act, which is three. So three of the five are needed.

PRESIDENT GUERRERO: Public land is important. I think everybody should be there to vote on it. I think that should be changed to reflect the importance of the land itself, of the land issues, to require that all members be present to take official action.

CHAIR LIFOIFOI: Madam Chair.

DELEGATE ALDAN-PIERCE: I just want to make a comment. In all of the years I was a board member at MPLC all of the board members were always at each board meeting.

CHAIR LIFOIFOI: Delegate Tom Aldan.

DELEGATE T. ALDAN: I think the recommendation by the president is pretty stiff and I cannot swallow that

board member to replace him. That person cannot attend that meeting.

CHAIR LIFOIFOI: Delegate Camacho.

DELEGATE CAMACHO: Mr. Chairman. Thank you.

(Statement in Chamorro).

DELEGATE CAMACHO: I want to briefly translate what I stated.

In reading the policy on this section from A to E, there is just no language here which will include or at least bring to the attention of the executive branch and the legislative branch, long-standing problems which we hear time and time again during the hearings. The people are not so concerned about economic development or for that matter commercial development.

They are interested in resolving their land problems which have been ongoing for the last 50 years. And I don't see anything that is being done about that. The executive branch is concentrating on which piece of property or who is coming up with the most money. I don't know about the legislature. I don't know about MPLC. But what about those people, our people, who even until now have not been able to have their land problems resolved.

Mr. Chairman, I have no problem like this, so I have no selfish interest. You and I may not last the next few years from now, no? Hopefully I last longer than you. But think about your children, with the exception of those of you who do not have any wives. Think of them. Are they going to inherit this problem after you and I go in another 50, hopefully 50 years from now? Can we do something that will delay any further release of public land for commercial purposes until all pending problems are thoroughly studied and a decision is made?

Mr. Chairman, please help me on this thing. I am counting on you. Thank you.

CHAIR LIFOIFOI: Thank you, Delegate Camacho.

Madam Vicechair Aldan-Pierce.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chair. I would like Delegate Camacho to look at Report No. 6 on Article 11, Commonwealth lands, dated July 14 which everybody has a copy of, page 4, Section 6 (b), land exchanges. I think his concerns are taken care of in this particular paragraph. It states that the Committee took note of the public dissatisfaction with the current land exchange program. The pending land exchanges could absorb a significant portion of the

remaining public lands. One proposal suggested a five-year moratorium on land exchanges while the pending situation was cleaned up. Instead the Committee decided to take the bureau out of the land exchange business altogether.

DELEGATE MARATITA: Point of order.

CHAIR LIFOIFOI: Delegate Maratita.

DELEGATE MARATITA: 5 (c) is the powers of the corporation. We were on that subject, as to whether it requires three or all five to take action. That's the discussion where we were before. I don't know why we deviated to other sections.

CHAIR LIFOIFOI: Let me recognize the Floor Leader.

DELEGATE HOCOG: I yield, Mr. Chairman.

CHAIR LIFOIFOI: Delegate Manglona.

DELEGATE MANGLONA: Let me see if I can assist our chair. In addition to what she just said, I believe also we transferred the land commission and put it under the new Marianas Land Bureau so that we could take care of the concerns raised by our former governor. Additionally we also moved land surveys to assist the department in expediting land surveys especially for those people that need their land.

DELEGATE CAMACHO: Mr. Chairman?

DELEGATE HOCOG: Point of order.

CHAIR LIFOIFOI: Let's confine it to the section under discussion.

Let me recognize the other members, too.
Delegate Gonzales.

DELEGATE GONZALES: (Statement in Chamorro).

CHAIR LIFOIFOI: Out of order.

DELEGATE GONZALES: (Statement in Chamorro).

Allow me to briefly translate what I said in Chamorro.

We all talk about the importance of public lands and how it is our identity, how it is our origin, how it is what we have.

I would like to embrace and wisdom of our distinguished president in his idea and concern to allow the proposed five directors. To give the simple majority of three people the power to dispose of public lands; goodness gracious, we are going to give that power to only three people. We are dealing with public lands. This is a humongous public property and we are just empowering three people.

DELEGATE VILLAGOMEZ: Can the delegate yield? Can I make a motion.

DELEGATE HOCOG: Chair.

DELEGATE GONZALES: Can I move? In light of what I just said, I move to increase the directors to seven.

CHAIR LIFOIFOI: (Statement in Chamorro).

Vicechair.

DELEGATE GONZALES: The Committee takes note of that.

CHAIR LIFOIFOI: Delegate Villagomez.

DELEGATE VILLAGOMEZ: I would like to yield to Delegate John Tenorio and I think he has a good idea in line with Delegate Gonzales concerns and Delegate Camacho and Manglona and make a decision now as to actions, whether a simple majority --

DELEGATE HOCOG: Privilege, Mr. Chairman.

CHAIR LIFOIFOI: State your privilege.

DELEGATE HOCOG: I would like my good Delegate, rather than passing or yielding the floor, maybe he can expound on what Delegate Tenorio is trying to say.

DELEGATE VILLAGOMEZ: What Delegate Tenorio mentioned is: We have five board members now, so four

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DELEGATE HOCOG: Do you want me to do it?

DELEGATE VILLAGOMEZ: Go ahead.

DELEGATE HOCOG: Mr. Chair, I believe,

irrespective of whether it is five or seven, every agency has regulations to follow and even if we require the five members to be present, it only takes three to constitute the quorum. Assuming that there is five, Mr. Chair, and two are not voting to support, and three support the idea or whatever the resolution is before then, it passes. So why do we have to be very mindful about the composition of five or seven, when the effect is the same.

So we don't want to make this very complicated, Mr. Chairman, and I would like to move on through this discussion.

What is 3 to 2? What is 4 to 3 in composition?

If the three members would like to defeat any proposal, they will defeat it by the majority 4 to 3, if the five members participated, and they want to defeat it they will defeat it by a majority of five. It really doesn't make any difference if we require five members to conduct the business. Each autonomous agency has a procedure to follow. If a proposal of any matter, of any nature, will not be supported by the three, so they will not support.

(Statement in Chamorro).

CHAIR LIFOIFOI: Recognize Delegate Tom Aldan.

DELEGATE T. ALDAN: Thank you, Mr. Chairman.

(Statement in Chamorro).

They are too protective and they don't know what they are talking about.

CHAIR LIFOIFOI: Delegate Maratita.

DELEGATE MARATITA: Precisely, Mr. Chairman. I was going to say that we put certain, if we say a majority of the members of the corporation or the bureau, then what constitutes a majority? Three? Then it is three. We are requiring also the action of the bureau to be reviewed by the legislature, and if we are going to require all 27 members of the legislature or 15 for that matter to pass the legislature, do we mean to say that we have to require all 15 people to approve? I mean, let's face reality, Mr. Chairman. We are providing a certain mechanism where action can be taken and completed.

CHAIR LIFOIFOI: One moment to change the tape (Brief pause).

DELEGATE MARATITA: If we say that five is the number, even if we increase it to seven, we just have to stick to reality, Mr. Chairman. And whether we approve of the majority -- this is the power of the

corporation. If we have to have public hearing, the bureau will conduct public hearing. Do we have to require the people supporting that to be 100 percent also to approve the proposal if this is going to go to the public hearing?

I urge that we maintain this provision in the Constitution, that the powers of the bureau will be those available to a corporation under Commonwealth law and that affirmative action will be by majority.

Thank you.

CHAIR LIFOIFOI: Delegate Mendiola.

DELEGATE D. MENDIOLA: (Statement in Chamorro).

CHAIR LIFOIFOI: Delegate Manglona.

DELEGATE MANGLONA: Thank you, Mr. Chairman. We have heard two views regarding this matter. I believe we have adequate discussion and I recommend that we permit the appropriate Committee to take those into consideration so that we can proceed with our other matters.

(The motion was seconded).

CHAIR LIFOIFOI: Jack.

DELEGATE VILLAGOMEZ: Yes, Mr. Chairman thank you. I won't take much time. If that is the consensus of the Committee I would like to offer my amendments so

everybody can think about it so when the Committee meets -- I have copies ready if you will allow me to pass them out now.

CHAIR LIFOIFOI: Yes.

DELEGATE VILLAGOMEZ: And have everyone think about it.

CHAIR LIFOIFOI: The Committee will be meeting on Monday. So we will consider that for submittal in the Committee meeting.

DELEGATE ALDAN-PIERCE: Can I continue?

CHAIR LIFOIFOI: Yes, Madam Chair.

DELEGATE ALDAN-PIERCE: Thank you.

Section 6. This section provides for the fundamental policies that must be followed by the bureau.

6 (a). This section provides for the homestead program. It broadens the authority of the homestead program to include a homestead housing component. The Committee recommends this broader authority as a practical way to meet the shortage of land that will cause the end of the homestead program in the foreseeable future. In the past, the homestead program has allowed two grants to each person, one village homestead and one agricultural homestead.

There is no longer enough land to allow two homesteads per person. For this reason a limitation of one homestead or homestead housing grant has been imposed. The bureau may grant land homesteads or housing homesteads. A person who receives a land grant is not eligible for a housing grant and vice versa.

The requirement that ten years pass before the homesteader may sell or lease the homestead has been increased to 25 years for the same reason. Homesteads may be transferred by inheritance at any time but the inheriting person must continue to fulfill the homestead requirements that originally applied. For example, if a homesteader died six years after title is granted, the inheriting person may not sell or lease the homestead for 19 years which when combined with the initial six years reference the total of 25 years. The governance of the homestead program is left to the bureau. Section 6 A provides for requirements relating to the program by the bureau issuing rules and regulations. The legislature may not pass laws imposing priorities, qualifications, requirements, waivers or any other conditions with respect to the homestead program.

6 (b). This section allows the bureau to

transfer a free hold interest in public lands to another agency of the Commonwealth government for use of public purpose. This kind of transfer may be done only after reasonable notice and public hearing.

Section 6 (c). This section governs all leases of public lands.

DELEGATE CAMACHO: May I interrupt?

CHAIR LIFOIFOI: Yes.

DELEGATE CAMACHO: We are on Section (b) which includes lands exchange.

There has been no request for discussion on the matter? Are we just going to go section by section? I would like to say a few words about the land exchange.

CHAIR LIFOIFOI: Yes, you may.

DELEGATE CAMACHO: First of all the Marianas Land Bureau which has been created is now being taken out of the authority to handle land exchanges and it is being given to the respective departments who will apply for land for such exchange from the land bureau. Isn't this just another bureaucracy? Please, I need additional information on what is the rationale behind transferring this authority from daddy to mommy and then get the kids to be involved in it. Why can't

daddy just handle it since the Marianas Land Bureau is the one that is handling land.

The various departments are asking for a parcel of property for public usage they have to justify that this is for exchange purposes.

Is this the rationale behind it? Is it passing the buck from the Marianas Land Bureau, because of its inability or failure in the past to handle this thing after 20 years of the existence of the Marianas Public Land Corporation, and so a new start won't be necessary, by transferring it to the executive branch to handle?

What assurance am I going to have that pending problems with land will be resolved, other than the eminent domain which is used at the end, that the government can use. In other words, forcing the government to use eminent domain. Yet the Marianas Land Bureau will continue to lease out public land for commercial development because that is where the money is. If I may say so, it is a selfish conflict of interest because they want money. A certain percentage is going to go to the administrative costs of running the land bureau?

I realize that the Committee decided that

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this is the best approach but I still cannot understand the rationale. Can somebody please help? I know I am a member of the Land and Personal Rights Committee. Apparently this was discussed when I was away. I would like to hear an explanation as to why this thing came about and what benefit it will derive. Would it resolve the many land problems which we continue as citizens of the CNMI and also as current or past public officials, to hear from the people. That is basically is my interest.

As I mentioned to you earlier, I have no selfish interest in this thing. I don't have any land that I am fighting with the government. I don't have any Article 12 issue I have to deal with. But I have heard of a lot of other people that have the same problem and we have been through time and time again on public hearings or at meetings or social gathering that people come and pour their land problems on you and yet the government is not doing anything.

So now we are transferring it to the Marianas Land Bureau from the executive branch, who will make the application to the Marianas Land Bureau for a specific piece of property for public use, and then turn around and say: We are going to use it for land

exchange for that piece of property, for that problem? Is that an accurate description of the purpose for this change? Can we hear not only from the vice-chairman, but the chairman or the legal counsel on this thing so that I can at least satisfy my mind and sleep well tonight?

MS. SIEMER: Let me try to summarize the discussion in the Committee, Dr. Camacho, that led the Committee to adopt this approach.

There are two fundamental problems that are plaguing the land system today. One is that the entity that controls public land, whether it is executive branch or someplace else, has a very difficult time in maintaining a comprehensive land use plan that makes sense because there are many different competing demands on it which it cannot control.

With respect to land exchanges, one of the principal problems that the departments and agencies have is that the landowners demand what the departments and agencies regard as too high a price and too large an exchange in order to effect a voluntary exchange.

When a request is made for public land to satisfy a department or agency, there is no cost to that department or agency's budget of any sort. It

gets essentially a free transfer of land from the public lands to satisfy a need that the agency may have for a road, for a school, for a piece of property for an easement, whatever their request is.

The attempt in this provision is to put this on a businesslike basis. First, as you will see when you come down a little bit farther, there is an effort to provide a comprehensive land use plan that has some teeth in it. Thus, when a department or agency comes to the bureau with a request for land, the bureau would be empowered to measure that request against this land use plan and see if it made any sense at all with respect to the overall purpose for the public lands.

That hopefully will prevent a piecemeal approach to this problem. If the bureau decided that it did not want to grant public lands for this exchange, did not want to do that because it doesn't fit with the overall plan, it doesn't fit with what they think is the overall public good, then the agency would have to use its eminent domain powers if it found that necessary and go ahead and take the land and pay for it.

If the bureau decides that the public land perhaps should be available for this purpose, then it

would have the power to charge the government agency against its budget for that land, thus making the land as valuable for the government or agency as it is for the public so that it is not a free good to be given away. The effort is to make the department agency that has the substantive responsibility for carrying out a public mission -- building a road, building a school, accomplishing a public purpose -- make that agency make the judgment about how much it is willing to spend and what the value is to obtain that particular land transfer. The problem that the Committee perceived that is the these land exchange problems simply pile up because there is not a rational way to solve them and there isn't one entity that can make a decision as to whether it is worth doing or not.

This is an effort to make a rational plan that would apply comprehensively and sensibly and put all the decision-making power with respect to the good of the public lands in one place and hopefully resolve a very important problem that you have identified and have rightly and consistently pointed out has to be solved.

CHAIR LIFOIFOI: Delegate Camacho.

DELEGATE CAMACHO: Mr. Chairman, if the MPLC in

the past has not been able to handle this thing, do you think the executive branch will be able to do it without something in the Constitution that will state that this matter must be resolved before any more commercial development of public land be granted here in the CNMI, if not Rota and Tinian, at least, on Saipan because this is where most of these problems are. This is where the situation of diminishing public land is right now. And yet all effort -- excuse my saying but even the current administration, the democratic administration -- is just going at that without even resulting or looking into it.

CHAIR LIFOIFOI: Delegate Quitugua.

DELEGATE QUITUGUA: Mr. Chair, since this is intended to solicit comments, I believe we have heard the comments and I recommend that those comments be referred back to the Committee for further deliberation.

CHAIR LIFOIFOI: Is there a motion?

DELEGATE QUITUGUA: So moved. All know in favor.

CHAIR LIFOIFOI: All those in favor say "Aye." All those opposed say "Nay."

We will refer all the comments back to the Committee on Land and Personal Rights.

DELEGATE ALDAN-PIERCE: I would like to now move on to Section 6 (c). This section governs all leases of public lands. This section requires that before a lease is approved by the bureau that a public notice be issued stating the precise terms of the lease that the bureau proposes to enter and identifying the party with whom it shall contract. That notice shall solicit and provide a reasonable opportunity for competing bids. If a better bid is received, the bureau may not go ahead with the original lease. To do so would violate the fiduciary responsibilities of the directors. The Committee recommends this new policy as an effective means of controlling leases and concessionary terms.

CHAIR LIFOIFOI: Questions?

Delegate Villagomez.

DELEGATE VILLAGOMEZ: Mr. Chairman, my recommendation deals with this section. I would like to request the Committee -- one thing though, I hope the Committee members be at the meeting, this is why we are placing this report before this Convention because the members don't come to the meetings. This is what I was trying to say. Members that are from the Committee are not showing up. So the meeting is shortened. There is no time. Sometimes it is delayed. So that is

delayed. So that is why I hope the members, Mr. Chairman, if they don't come, fire them and let us who care about this Committee be members.

CHAIR LIFOIFOI: I take that under advisement.

DELEGATE VILLAGOMEZ: Now I know which to believe.

CHAIR LIFOIFOI: Madam Chair Aldan-Pierce please proceed.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chairman. Length: The Committee recommends that the term of the lease on public lands be increased to 40 years. The current constitutional provision allows 25 years with a renewal of 15 years with approval of three-fourths vote in the legislature.

The Committee took note of the problems that occurred when foreign investors get leases, do not develop them, and hold the land for speculation. The Committee recommends that the bureau be required to put in all leases a provision defining the expiration of the lease in three years if the commercial purpose has not been accomplished.

The Committee noted the extensive revisions of major leases that are required by the legislature. In effect, it is a separate appropriation process.

This practice is undesirable. For this reason the Committee recommends the legislature be required to vote to approve or reject a lease and that no alterations or additional conditions be allowed. Under the language recommended by the Committee, any additions or changes by the legislature will be of no effect.

The Committee has provided that the legislature must approve leases of more than 25 years or more than five hectares. The Committee has taken note of the possible evasion of the five hectare requirement that might occur if developers acquire separate parcels of less than five hectares and then join them. The fiduciary responsibility of the directors requires that they investigate this possibility and require as a lease term that if any parcels are subsequently joined in fact or in practical effect to a lease of less than five hectares that will make the total parcel greater than five hectares, that the lease expire and legislative approval must be sought.

The Committee has also taken note of the complaints of developers that their projects are often held hostage by the legislature. There is no public

purpose to be served by delay. For this reason the Committee recommends a provision that if the legislature does not act within 60 session days the lease is deemed to be approved. The Committee is mindful that approval of leases can take up a considerable amount of the legislature's time. For that reason the Committee has required that the legislature act in joint session had when it approves leases.

The 1976 Constitution contained a requirement of a three fourths vote of the legislature to approve an extension of the lease from 25 to 40 years. Due to the downsizing of the legislature and the safeguards explained above, the Committee does not recommend maintaining this super majority requirement.

CHAIR LIFOIFOI: Questions? Delegate Dr. Aldan.

DELEGATE V. ALDAN: Thank you, Mr. Chair. I am not a member of the Committee but I have been attending the meetings. From what I gather from the meetings, I thought that we would continue with the status quo. However, if the investigation or the lessee completes the structure, then he will be automatically guaranteed the 40 years. I don't think they voted to extend it from 25 to 40. Maybe I stand to be corrected.

Thank you.

CHAIR LIFOIFOI: Yes, Delegate Camacho.

DELEGATE CAMACHO: This 40 years is the total?

CHAIR LIFOIFOI: Yes.

DELEGATE CAMACHO: Or 40 plus 15 years option?

DELEGATE ALDAN-PIERCE: Total.

CHAIR LIFOIFOI: Madam Chair, proceed.

DELEGATE ALDAN-PIERCE: Section 6 (d). This section covers the comprehensive land use plan. A requirement for such a plan has been in the Constitution since 1976 but it has not been very effective. The Committee recommends this requirement be strengthened in two ways. First the bureau should be required to act only in accordance with the plan. Second, the bureau should adopt the plan only after reasonable notice and public hearings.

Section 6 (e). This section provides for the disposition of any proceeds from the leases or sale to other government agencies and public lands. As in the 1976 Constitution, the monies are to be deposited with the Marianas Public Land Trust.

CHAIR LIFOIFOI: Proceed.

DELEGATE GONZALES: Just a suggestion to the Committee. I know we are going to get it back.

It says here that we are going to ask or compel the Land Bureau to come up with the comprehensive land use plan. I am concerned with how long we give it. Mr. President, it has been said in the past that we have constitutional provisions yet ten years have transpired and that provision is not taken care of.

Can we perhaps include in the legislative history, in addition to asking the bureau to approve a land use plan, that they do it within a certain amount of time so that we can enforce it and fulfill it and not just rubber stamp a black and white document.

DELEGATE ALDAN-PIERCE: So noted.

CHAIR LIFOIFOI: Delegate Tom Aldan.

DELEGATE T. ALDAN: I think that Delegate Gonzales thought of a very good point and I would like the Committee to consider this recommendation: That before any other lease of public land for commercial use is made, that a land use plan is in place.

Thank you.

CHAIR LIFOIFOI: Delegate Dr. Aldan.

DELEGATE V. ALDAN: I am not sure if I mentioned this in the Committee but the chairmen knows about it and also our legal counsel Deanne.

I thought that this report was going to come up with certain language regarding how are we going to handle those previously leased lands that are sitting out there and not making any profit for our government. I would like to Committee to entertain the idea when we revisit that portion of the lease. Thank you.

DELEGATE ALDAN-PIERCE: So noted.

CHAIR LIFOIFOI: Mr. President.

PRESIDENT GUERRERO: Thank you, Mr. Chairman. I just want to ensure that Section 6 (c), the budget of the Marianas Land Bureau, that whatever proceeds they are getting, there is some oversight with the legislature rather than the old practice of sometimes using up the entire amount, or a very little amount transferred to the Marianas Public Land Trust. I think this language here gave that authority for the legislature to approve its budget. I assume it can amend the budget, if it is too excessive. That has been the criticism of MPLC in the past -- that it has a very ballooned, excessive budget, that the legislature does not have any say so, and there was no check and balance. So I am glad there is the check and balance in here.

So it will provide greater accountability of the funds to the general public.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Thank you. Madam Vicechair.

DELEGATE ALDAN-PIERCE: That was my next paragraph.

The bureau is required to submit a budget to the legislature to be approved by the governor and may spend money for administration and programs only as authorized by the budget. Once authorized, the bureau may retain funds for administration for the maintenance of the preserves authorized under Section 3, or the homestead programs under Section 6 (a).

Section 7 combines all the land survey and land title agencies under the bureau. The governor's reorganization affected this consolidation and it is preserved here. The functions of the land commission and the functions of surveying lands are consolidated within the bureau. This has no effect on the jurisdiction of the Superior Court to hear land cases. The adjudication function of the bureau is an administrative one.

CHAIR LIFOIFOI: Questions? If not, proceed.

DELEGATE ALDAN-PIERCE: Section 8. This section

provides for the Marianas Public Land Trust in essentially the same way as the 1976 Constitution.

Section 8 (a). This section maintains the current Marianas Public Land Trust. The only substantive change made to this section is a term limit of two terms. The term limit applies retroactively so that any current trustee who has served two terms would not be eligible to serve a third term.

Section 8 (b). This section controls the kind of investments the trustees may make with the principles of the trust.

Bonds: This section provides that 40 percent of the investments must be in bonds purchased in the United States market. The trustees may not speculate in foreign markets. The bonds must be of high quality. This requires to trustees to purchase only bonds of A grade or better under the current rating system.

Stocks: This section provides that whenever the trustees buy stocks, they must purchase shares of companies listed on the stock exchange in the United States that has the highest qualifications for listing. At present that is the New York Stock Exchange. This means that the trustees will be

investing in companies that have a relatively high asset value. The trustees may not speculate in commodities, stocks listed on other exchanges or, foreign stocks.

Section 8 (c). The trustees may retain the interest earned on the principals of the trust if they elect to invest in mortgages or loans permitted under 6 (a), which covers the homestead and homestead housing program. Up to 40 percent of the interest earned may be allocated for this purpose. If the trustees do not allocate interest proceeds to this purpose, they are turned over to the general fund.

Section 8 (d), this section is the same as Section 6 (e) of the 1976 Constitution. Thank you.

CHAIR LIFOIFOI: Questions? Delegate Tom Aldan.

DELEGATE T. ALDAN: I would like the Committee to consider including a statement that essentially the board of trustees or trustees of MPLT shall have the sole power to approve the investment of the fund assets; in other words, so that it is not appropriated outright or the board is not told where to place such investments. The board in fact has the fiduciary duty to make that determination of placing assets in any investments they desire and not from outside

interference.

DELEGATE ALDAN-PIERCE: So noted.

CHAIR LIFOIFOI: Delegate Gonzales.

DELEGATE GONZALES: Just a comment. I want the record to reflect my position with regards to Section 5 (c) with regards to seven directors. I didn't mean to say that all seven will approve the lease. I want a simple majority, I want four out of seven instead of seven out of seven. If people misinterpreted my position, I want the record to reflect that. Thank you.

CHAIR LIFOIFOI: So noted.

DELEGATE ALDAN-PIERCE: That concludes my report on Article 11 for today. Thank you.

(Applause).

CHAIR LIFOIFOI: Thank you, Madam Chair. Next and last on our agenda, the subcommittee on education.

I recognize Vicechair Mendiola on Article 15.

DELEGATE D. MENDIOLA: Thank you very much for the honor, Mr. Chair. I yield the floor to the subcommittee chairperson, our most honorable Mrs. Esther Sablan Fleming, please.

CHAIR LIFOIFOI: Delegate Aldan.

DELEGATE T. ALDAN: Mr. Chairman, may I ask for a recess of three to five minutes.

CHAIR LIFOIFOI: Five minutes recess

(Recess taken from 4:00 p.m. to 4:15 p.m.)

CHAIR LIFOIFOI: The Committee of the Whole will now resume its session.

I now call on the subcommittee Madam Chair, Delegate Fleming on Article 15, education.

DELEGATE FLEMING: We have distributed to all delegates the draft language we have been working on and a preliminary report stating the changes we propose. That is report No. 3, Article 15 on education. Also, you should have a chart that has been distributed illustrating the responsibilities for each of the different entities from the legislature down to the parents and what their responsibilities will be under the proposed Article and also another chart that differentiates the education under the new provision Article 3, section 13 and the existing provision under Article 15.

I would like just to summarize rather than go through each of the subsections. So briefly the main points of our Proposal.

First, we think that the current Article 15

which covers education should be moved back to Article 3 where it was in 1976 Constitution. Education is funded by the Commonwealth and the Executive Branch is responsible for the execution of the Commonwealth laws with respect to education and therefore Article 3 is the proper place for these provisions. Our proposal involves some delegation to local school boards of the current authority vested in the central office within the executive branch. This is a delegation of executive branch power and the description of this delegation belongs in the Article on the executive branch. For this reason, our proposal changes Article 15 to Article 3 Section 13.

Nearly every speaker at the public hearings held by the committee supported decentralization of the school system. The large central system that we have now is not as responsive to the local school needs as principals, teachers and parents would like. The people most closely involved with the schools are convinced that they can do a better job of education if we decentralize. We think the best way to decentralize the school system is to have locally-elected school boards. Our proposal provides for a five-person board in each senatorial district. We believe that a

five-person board will represent the community and help bring community support to the school system. These are not full-time jobs and we do not believe that the additional cost will be significant, particularly compared to the benefits. Candidates for the local school boards would run on a non-partisan basis and would serve four-year terms. Vacancies would be filled by the next highest vote getter unless there was none. Then in this case the school board would select a qualified person from the senatorial district. Because the funding for education comes from the Commonwealth funds, and because we need to have uniform policies and standards for education in the Commonwealth, we have provided for a Secretary of Education appointed by the governor. The Secretary would have policy making responsibility but would not be involved in the day-to-day administration of the schools. That is the responsibility of the local school boards and the principals of the schools.

We have passed out a chart that indicates in an outline form how this system would work. You will notice that in our draft we are still debating whether the Secretary of Education should be confirmed by the Senate as other cabinet members are or should be

confirmed by a majority of the chairs of the local school boards. You will also notice that in our draft we are still discussing whether the Constitution should specify that the Secretary of Education must have an advanced degree of some kind.

We have provided for flexibility in this decentralization plan. In the future, the legislature may decide on a different approach if the one we designed can be improved. You will see in our draft that we are discussing a ten-year period in which the constitutional system would be in effect before the legislature could make any changes. That number of ten years may change, but the idea is to give the decentralization plan time to improve itself. We don't want the central system just waiting out a few years so it can come back again.

We have also provided for an appropriation for instruction that is allocated to the schools on a per enrolled student basis. This provides for an incentive for the schools to keep kids in school. It gives the school some certainty and stability in their funding and it puts the spotlight on instruction which is where it ought to be.

There will be appropriations for

administration and also for CIP. This will not be allocated on a per capita basis, and in this area the legislature will meet the extra costs for the school systems in Rota and Tinian.

We have taken out all the guaranteed earmarking of the Commonwealth revenues. All entities would have to justify their budgets to the legislature under this plan. We think that earmarking does not help improve the quality of the schools or of the administration.

We have also taken out all the detailed language on higher education, and we have gone back to a simple provision like that from the 1976 Constitution.

As the chair of our Committee said, we are meeting again on Monday to discuss this draft before we bring it formally to the Convention in the plenary session on Tuesday. We welcome input from other delegates at that session.

Mr. Chairman, I know that in the essence of time, some of us are very tired. I would like to recommend to the delegates here in the chamber that we take what this Committee has provided today, take it home and digest this new model. I would like also to

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suggest that when we come back on Monday, we can be able to discuss in more length some of these suggestions that probably you would want to discuss today. At the same time I want to thank those that have stayed late -- on the last two nights we have been meeting just so we have been able to pull this together. Some of your suggestions have been noted and taken in. I would like to just assure that Delegate Hocog's recommendation last night that we reduce, the possibility of reducing Rota and Tinian and that may be his opinion, he may still have to sell that to the rest, because I guess he indicated that that is his opinion and that it may be contested, but his recommendations that maybe the possibility of reducing the school boards for Rota and Tinian down to three, and maybe Saipan maintains five, will be noted in our meeting on Monday. I ask that please in order for us to reduce debates on the floor of the plenary session, that we all come in together for that Monday meeting so that we will be able to take all the recommendations. I also would like to request that when you put in recommendations, be constructive in the criticism and provide us with what you feel is best for this part of the report.

Thank you, Mr. Chairman.

CHAIR LIFOIFOI: Thank you, Madam Chair of the subcommittee.

Floor Leader.

DELEGATE HOCOG: I would like to make her recommendation in effect a motion to do just that; that we look into the Committee work and submit our recommendations by Monday.

(The motion was seconded).

CHAIR LIFOIFOI: Discussion?

Delegate Lillion Tenorio.

DELEGATE LILLIAN TENORIO: Thank you, Mr. Chair. I am looking at the chart regarding educational responsibilities, and I noticed that under the legislature and the governor, it deals solely with appropriations, the appropriation function. Now on page 2 of the draft report, it states that the subcommittee is deleting several sentences in the current provision so that policy and administrative goals can be enacted by the legislature.

Is the intention of the Committee to give that authority also to the legislature and in effect the governor?

DELEGATE HOCOG: Point of control, Mr. Chair. I

have a motion to further carry out --

(The motion was seconded).

CHAIR LIFOIFOI: It has been seconded. All those in favor say "Aye." Opposed?

DELEGATE LILLIAN TENORIO: Under miscellaneous?

CHAIR LIFOIFOI: Thank you, Madam Chairman of the subcommittee. I will take it under miscellaneous.

DELEGATE HOCOG: Mr. Chairman. I would like to rise back now to our plenary session.

(The motion was seconded).

CHAI LIFOIFOI: All those in favor say "Aye."
Opposed?

Committee of the Whole is now resolved.

PRESIDENT GUERRERO: Plenary session is called back to order.

Delegate Lifoifoi can you report on the deliberation of the Committee of the Whole, please?

CHAIR LIFOIFOI:: Thank you, Mr. President. Your Committee of the Whole has discussed extensively the articles, Article 3 and Article 11 and also Article 15. I believe all the members have heard all the reports from each respective chairman and vice-chairman and hope that the members will prepare any concerns, if they have any, or amendments that can be offered in

next week's Committee meetings.

Thank Mr. President.

PRESIDENT GUERRERO: Thank you, Delegate Lifoifoi and thank you, for an excellent job done on the Committee of the Whole.

(Applause).

DELEGATE HOCOG: Mr. President.

PRESIDENT GUERRERO: Yes, Delegate Hocog.

DELEGATE HOCOG: Because there was no recommendation that any of the Articles discussed in the Committee of the Whole be placed on the order of the day for first reading, I move to suspend Item 10 and 11 and move to Item 12.

(The motion was seconded).

PRESIDENT GUERRERO: Before I entertain that can I just make an announcement?

DELEGATE HOCOG: Yes, go ahead.

PRESIDENT GUERRERO: I think as everybody knows the weather has not been very cooperative regarding our plan and the executive director for entertainment and happiness has decided it is not in the best interest at this time to have our scheduled activities and will just postpone it to another time.

DELEGATE HOCOG: Thank you, Mr. President, for our

health and safety.

PRESIDENT GUERRERO: Thank you. Let me recognize Delegate Nogis.

DELEGATE NOGIS: Yes, Mr. President in line with that, I think it has been a long, strenuous day, we have decided to cancel the Executive Branch Committee meeting for today.

PRESIDENT GUERRERO: Mr. Floor Leader.

DELEGATE HOCOG: Mr. President, I now move to Item 12 to adjourn.

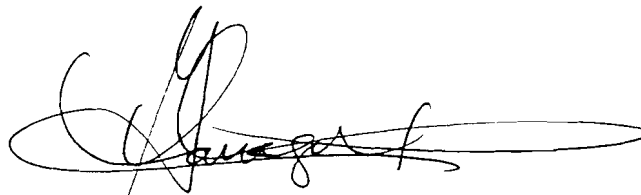
(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to adjourn. Those in favor of the motion say "Aye." Those opposed say "Nay."

(Motion carried)

(The Convention adjourned at 4:30 p.m.)

Respectfully,



Convention Secretary

July 14, 1995

COMMITTEE ON LAND AND PERSONAL RIGHTS

REPORT NO. 6: ARTICLE XI, COMMONWEALTH LANDS

The Committee met on Monday, July 10, 1995, Tuesday, July 11, 1995, Wednesday, July 12, 1995, Thursday, July 13, 1995, and Friday, July 14, 1995 to consider proposed amendments to Article XI: Public Lands. The Committee considered Delegate Proposals 24, 27, 90, 94, 101, 103, 116, 117, 150, 151, 152, 153, 161, 164, 165, 183, 192, 220, 256, 257, 275, 285, 359, 360, 361, 368, 407, 408, 425, 432, 437, 460, 461, 462, 491, 496, 500, 531, 533, 559, 562, 563, and 571 which had been referred to it by the Committee on Organization and Procedures. In addition, the Committee held five public hearings on land matters. The first hearing was held at the House chamber on June 16, 1995. The second and third hearings were held at Garapan Elementary School and San Vicente Elementary School in the evenings. The fourth hearing was held on Rota on June 28, 1995. The fifth hearing was held on Tinian on July 7, 1995.

The Committee decided that the constitutional structure for administering the land programs that was put in the Constitution in 1976, but was permitted to be removed by the 1985 amendments, should be restored.

Each of the sections is discussed below.

The title of this section has been changed from "Public Lands" to "Commonwealth Lands" to accommodate the change in the scope of coverage, as explained below.

Section 1: This section identifies the public lands. It is the same as the 1976 version.

Section 2: This section deals with submerged lands. It is the same as the 1976 version.

Section 3: This section is new. The Committee recommends that some lands on each of the islands be set aside in permanent preserves. This is the only way that land will be available for the enjoyment of future generations. The Committee has appointed a subcommittee to define the precise lands to be set aside in preserves and will report further with respect to this.

The Committee asks the Convention to approve this concept in principle, subject to further definition when the subcommittee finishes its work. The Committee also seeks input from all delegates as to the precise lands that should be included in the preserves.

Section 4: This section is an adaptation of former Section 3. It provides that the preserves, and the remainder of the public lands, are the responsibility of the Marianas Land Bureau.

Section 5: This section restores the former Section 4 in the 1976 Constitution, and renames the Marianas Public Land Corporation as the Marianas Land Bureau. The Committee recommends that the former name not be used for the new entity. The new section contains some different provisions, and it might be confusing to use the old name for the new entity.

Section 5(a): This provision deals with the governance of the bureau. The bureau has five directors who are appointed by the Governor with the advice and consent of the Senate. The directors serve five-year terms, with one term expiring every year so that the Governor will have an opportunity to appoint four of the five members during his first term of office. A limit of two terms is imposed. The term limit will not affect the new Bureau because, as a new agency, there will be no directors who have served two terms. The requirement with respect to strict standards of fiduciary duty that was added by the 1985 amendments is retained.

Section 5(b): This provision deals with the qualifications of the directors. It retains the requirements of the 1976 Constitution with respect to representation of the three islands and the Carolinian community. It also retains the requirement, added in 1985, with respect to a woman member. It retains the requirement of U.S. citizenship, but deletes U.S. national status. It retains the five-year residency requirement. The requirement with respect to felony convictions has been deleted because there is an overall provision in this regard that has been added to Article VII.

The Committee notes that conditions with respect to the availability and priority of uses of public lands varies among the senatorial districts. For this reason, the representatives of the three senatorial districts on the board of directors likely will want to involve advisory councils from their respective senatorial districts in order to obtain input from and to be responsive to the public with respect to land decisions.

A new requirement has been added that all directors must come from the private sector. The Committee recommends this requirement as a balance against the viewpoints of senior government employees who staff the bureau and as a means of infusing the necessary top management talent into the bureau.

Section 5(c): This section is the same as Section 4(d) of the 1976 Constitution.

Section 5(d): This section is the same as Section 4(e) of the 1976 Constitution, with the added proviso that the annual report must be delivered by the chair, in person, to a joint session of the legislature.

Section 6: This section provides for the fundamental policies that must be followed by the bureau.

Section 6(a): This section provides for the homestead program. It broadens the

authority of the homestead program to include a homestead housing component. The Committee recommends this broader authority as a practical way to meet the shortage of land that will cause the end of the homestead program in the foreseeable future.

When the Commonwealth was founded, nearly 80% of the land in the Commonwealth was public land. The homestead program was begun as a way to get this public land into the hands of the people and to create a stable class of landowners with a stake in the future of the Commonwealth. In the intervening 20 years, much of that public land has been transferred to homesteaders or to commercial lessees.

Housing: By empowering the Bureau to provide homesteads that are essentially condominium interests in buildings on public lands, the Constitution allows the Bureau to have the flexibility to meet the demand for homesteads and to continue the basic underlying purpose of the homestead program. The constitutional provision does not require the Bureau to get into the housing business in any particular way. It provides the authority; and allows the Bureau to implement the program in the manner most suitable to requirements in the community.

One grant: In the past, the homestead program has allowed for two grants to each person, one village homestead and one agricultural homestead. There is no longer enough land to allow two homesteads per person. For that reason, a limitation of one homestead or homestead housing grant has been imposed. The Bureau may grant land homesteads or housing homesteads. A person who receives a land grant is not eligible for a housing grant, and visa versa.

Limitation on sale or lease: The purpose of providing homesteads is not to enrich the homesteader, but to provide a stable place for the homesteader to live and an incentive for persons of Northern Marianas descent to continue to live in the Commonwealth and to help it prosper. For that reason, the requirement of three years before title vests has been retained. This requirement was included in the 1976 Constitution. The requirement that 10 years pass before the homesteader may sell or lease the homestead has been increased to 25 years for the same reason. Homesteads may be transferred by inheritance at any time, but the inheriting person must continue to fulfill the homestead requirements that originally applied. For example, if a homesteader died six years after title is granted, the inheriting person may not sell or lease the homestead for 19 years, which, when combined with the initial 6 years, reaches the total of 25 years.

Assistance with mortgages: The provisions of Section 6(a) with respect to mortgages are the same as in the 1976 Constitution. Because of the title restrictions on homestead grants, it is usually not possible to get a commercial mortgage. For this reason, the Committee recommends that Marianas Public Land Trust funds be made available to fund or guarantee homestead mortgages, and the Committee's draft has so provided.

Governance: The governance of the homestead program is left to the Bureau. Section 6(a) provides for requirements relating to the program by issuing rules and regulations. The

Legislature may not pass laws imposing priorities, qualifications, requirements, waivers, or any other conditions with respect to the homestead program.

Section 6(b): This section allows the Bureau to transfer a freehold interest in public lands to another agency of the Commonwealth government for use for a public purpose. This kind of transfer may be done only after reasonable notice and a public hearing.

Land exchanges: The Committee took note of the public dissatisfaction with the current land exchange program. The pending land exchanges could absorb a significant portion of the remaining public lands. One proposal suggested a five-year moratorium on land exchanges while the pending situation was cleaned up. Instead, the Committee decided to take the Bureau out of the land exchange business altogether. The Bureau may make public land available to other government agencies under Section 6(b) and those government agencies may use the public land obtained from the Bureau for the land exchanges it needs to accomplish its public purposes. Under this provision, the government agency that needs the land exchange would request land from the Bureau. If the Bureau found that the request could be accommodated within the Bureau's overall plan, and that the request was a reasonable use of the land, then the Bureau could exercise its discretion to provide the necessary land to the requesting agency. That agency would be responsible for all details of the actual exchange. The Bureau would be permitted to require payment by the requesting agency for the land to be transferred. If the Bureau decided against the transfer, the public agency would then have to use the eminent domain power. The Bureau would not have the authority to deal with private individuals in land exchanges.

Section 6(c): This section governs all leases of public lands.

Conditions: This section requires that before a lease is approved by the Bureau, that a public notice be issued stating the precise terms of the lease that the Bureau proposes to enter and identifies the party with whom it will contract. That notice shall solicit and provide a reasonable opportunity for competing bids. If a better bid is received, the Bureau may not go ahead with the original lease. To do so would violate the fiduciary responsibilities of the directors. The Committee recommends this new policy as an effective means of preventing leases at concessionary terms.

Length: The Committee recommends that the term of the lease on public lands be increased to 40 years. The current constitutional provision allows 25 years with a renewal of 15 years with the approval of a 3/4 vote in the legislature.

The Committee took note of the problems that occur when foreign investors get leases, do not develop them, and hold the land for speculation. The Committee recommends that the Bureau be required to put in all leases a provision defining the expiration of the lease in three years if the commercial purpose has not been accomplished.

Approval by the Legislature: The Committee noted the extensive revisions of major

leases that are required by the Legislature; in effect a separate appropriation process. This practice is undesirable. For this reason, the Committee recommends that the Legislature be required to vote, to approve or reject, on a lease and that no alterations or additional conditions be allowed. Under the language recommended by the Committee, any additions or changes by the Legislature would be of no effect.

The Committee has provided that the Legislature must approve leases of more than 25 years or more than 5 hectares.

The Committee has taken note of the possible evasion of the 5-hectare requirement that might occur if developers acquired separate parcels of less than 5 hectares and then joined them. The fiduciary responsibility of the directors requires that they investigate this possibility and require, as a lease term, that if any parcels are subsequently joined, in fact or in practical effect, to a lease of less than 5 hectares that would make the total parcel greater than 5 hectares, then the lease shall automatically expire and the legislature's approval must be sought.

The Committee has also taken note of the complaints of developers that their projects are often held hostage by the Legislature. There is no public purpose to be served by delay. For this reason, the Committee recommends a provision that if the Legislature does not act within 60 session days, the lease is deemed to be approved.

The Committee is mindful that approval of leases can take up a considerable amount of the Legislature's time. For that reason, the Committee has required that the Legislature act in joint session when it approves leases.

The 1976 Constitution contained a requirement of a 3/4 vote of the Legislature to approve an extension of a lease from 25 to 40 years. Due to the downsizing of the Legislature, and the safeguards explained above, the Committee does not recommend retaining this super-majority requirement.

Section 6(d): This section covers the comprehensive land use plan. A requirement for such a plan has been in the Constitution since 1976, but it has not been very effective. The Committee recommends that this requirement be strengthened in two ways: First, the Bureau should be required to act only in accordance with a plan. Second, the Bureau should adopt or amend the plan only after reasonable notice and public hearings.

Section 6(e): This section provides for the disposition of any proceeds from the leases or sale (to other government agencies) of public lands. As in the 1976 Constitution, the moneys are to be deposited with the Marianas Public Land Trust.

The Bureau is required to submit a budget to the legislature, to be approved by the Governor, and may spend money for its administration or programs only as authorized by this budget. Once authorized, the Bureau may retain funds for administration, for the maintenance of the preserves authorized under Section 3, or for the homestead programs authorized under

Section 6(a).

Section 7: This section combines all the land survey and land title agencies under the Bureau. The Governor's reorganization effected this consolidation, and it is preserved here. The functions of the Land Commission and the functions of surveying lands are consolidated within the Bureau. This has no effect on the jurisdiction of the Superior Court to hear land cases. The adjudication function of the Bureau is an administrative one.

Section 8: This section provides for the Marianas Public Land Trust in essentially the same way as the 1976 Constitution.

Section 8(a): This section maintains the current Marianas Public Land Trust. The trust has five directors, with representation from the senatorial districts, the Carolinian community, and the women's constituency. The only substantive change made to this section is a term limit of two terms. The term limit applies retroactively, so that any current trustee who has served two terms would not be eligible to serve a third term.

Section 8(b): This section controls the kinds of investments that the trustees may make with the principal of the trust.

Bonds: This section provides that 40% of the investments must be in bonds purchased in the United States market. The trustees may not speculate in foreign markets. The bonds must be of high quality. This requires the trustees to purchase only bonds of A grade or better under the current rating system.

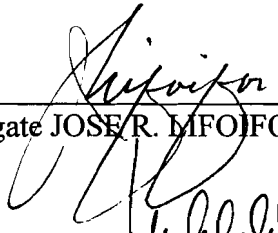
Stocks: This section provides that when the trustees buy stocks, they must purchase shares of companies listed on the stock exchange in the United States that has the highest qualifications for listing. At present, that is the New York Stock Exchange. This means that the trustees will be investing in companies that have a relatively high asset value. The trustees may not speculate in commodities, stocks listed on other exchanges, or foreign stocks.

Section 8(c): The trustees may retain the interest earned on the principal of the trust if they elect to invest in mortgages or loans permitted under Section 6(a) which covers the homestead and homestead housing program. Up to 40% of the interest earned in any year may be allocated to this purpose. If the trustees do not allocate interest proceeds to this purpose, they are turned over to the general fund.

Section 8(d): This section is the same as Section 6(e) of the 1976 Constitution.

The constitutional language reflecting the Committee's decisions is attached. The Committee recommends this language to the Convention.

Respectfully submitted,

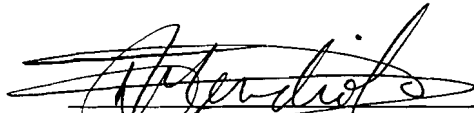


Delegate JOSE R. MFOIFOI, Chair

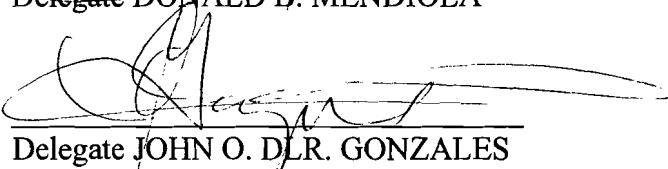


Delegate MARIAN ALDAN-PIERCE, Vice Chair

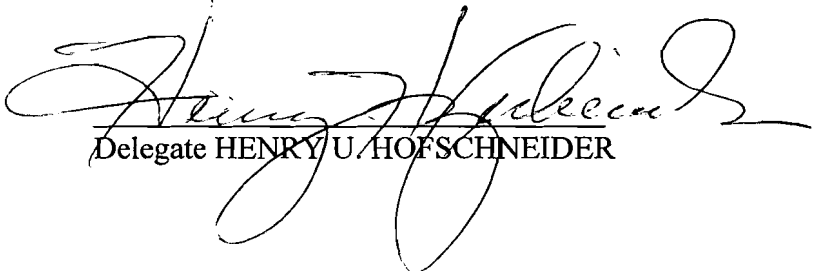
Delegate CARLOS S. CAMACHO



Delegate DONALD B. MENDIOLA



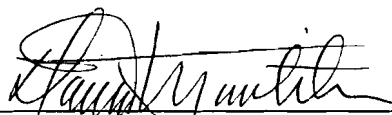
Delegate JOHN O. DLR. GONZALES



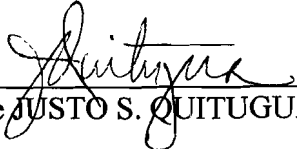
Delegate HENRY U. HOF SCHNEIDER

Delegate DAVID L. IGITOL

Delegate BENJAMIN T. MANGLONA



Delegate DAVID Q. MARATITA



Delegate JUSTO S. QUITUGUA

Delegate JOEY P. SAN NICOLAS

Delegate LILLIAN A. TENORIO

Con0715a

7/15/95

ARTICLE XI: COMMONWEALTH LANDS

Section 1: Public Lands.

The lands as to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right, title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under article VIII of the Covenant, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are public lands and belong collectively to the people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands.

The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Permanent Preserves

There are hereby established permanent preserves which shall be maintained as uninhabited areas to be used for cultural and recreational purposes, to preserve wildlife and medicinal and other plant life, to conserve water resources, and to provide community farm lands. No permanent structure may be built in the preserves. No land designated as a preserve may be sold, leased, or dedicated to any private use in any way.

- a) [description of land on Saipan]
- b) [description of land on Tinian]
- c) [description of land on Rota]

[Note: This section is new. The lands to be put in the preserves are being defined by a subcommittee.]

Section 4: Other Public Lands.

The management and disposition of public lands other than those provided for by Section 2 shall be the responsibility of the Marianas Land Bureau.

Section 5: Marianas Land Bureau.

There is hereby established the Marianas Land Bureau.

a) The bureau shall have five directors appointed by the governor with the advice and consent of the senate. The directors shall be held to strict standards of fiduciary care and shall direct the affairs of the bureau for the benefit of the people of the Commonwealth who are of Northern Marianas descent. The directors shall serve staggered terms of five years, and shall serve not more than two terms.

b) At least one director shall be a resident of each senatorial district, at least one shall be a woman and at least one shall be a representative of the Carolinian community. Each director shall be a citizen of the United States and a resident of the Commonwealth for five years immediately prior to appointment, and shall not hold any other government position.

c) The bureau shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the directors.

d) The chair shall make an annual report in person to the people at a joint session of the legislature describing the management of the public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in land in the Commonwealth.

Section 6: Fundamental Policies.

The bureau shall follow certain fundamental policies in the performance of its responsibilities.

a) The bureau shall use some portion of the public lands for a homestead and homestead housing program. A person is not eligible for more than one homestead or homestead housing grant. A person may not receive a freehold interest under this subsection for three years after a grant and may not sell or lease a freehold interest in a grant for twenty five years after receipt. At any time after receiving the freehold interest, the grantee may mortgage the grant provided that all funds received from the mortgage be devoted to the improvement of the grant. Other requirements relating to the program under this subsection shall be provided by rules and regulations issued by the bureau.

b) The bureau may transfer a freehold interest in public lands for use for a public purpose by another agency of government after reasonable notice and public hearing.

c) The bureau may transfer a leasehold interest in public lands for commercial or other purposes after reasonable notice, a solicitation for competing bids, and public hearing. A leasehold interest shall not exceed forty years including renewal rights and shall expire within three years if the commercial purpose is not accomplished. Leasehold interests of more than twenty five years, or more than five hectares, shall be submitted to the legislature. The legislature acting in a joint session may approve or reject, but may not alter, the lease presented by the bureau. If the legislature fails to act within sixty session days, the lease is deemed approved.

d) The bureau shall operate in accordance with a comprehensive land use plan with respect to public lands including priority of uses and shall adopt or amend the plan only after reasonable notice and public hearing.

e) The bureau shall receive all moneys from the public lands and shall transfer these moneys promptly to the Marianas Public Land Trust except that the bureau may retain the amount necessary to meet reasonable expenses of administration, costs of programs under section 5(a) and maintenance of the permanent preserves in accordance with a budget approved by the legislature and the governor.

Section 7: Land Titles

The bureau is vested with jurisdiction to investigate, survey, consider, adjudicate, and resolve land titles.

Section 8: Marianas Public Land Trust.

There is hereby established the Marianas Public Land Trust.

a) The trust shall have five trustees appointed by the governor with the advice and consent of the senate, who shall be held to strict standards of fiduciary care. At least one trustee shall be a resident of each senatorial district, at least one trustee shall be a woman and at least one trustee shall be a representative of the Carolinian community. The trustees shall serve staggered terms of five years, and shall serve not more than two terms.

b) The trustees shall make reasonable, careful and prudent investments. At least forty percent of the investments shall be in obligations purchased in the United States with

a high rating for quality and security. Investments in equities shall be purchased in companies listed on the United States stock exchange with the highest requirements for listing.

c) The trustees may fund or guarantee the maintenance of the permanent preserves under section 3 and mortgages and loans permitted under section 6(a) to an amount not to exceed forty percent of interest earnings each year.

d) The trustees shall make an annual written report to the people accounting for the revenues received and expenses incurred by the trust and describing the investments and other transactions authorized by the trustees.

Schedule on Transitional Matters

Section ____: Public Lands

Leases of public lands after June 5, 1995 shall be in accordance with Article XI.

Nothing in these amendments shall impair rights under existing contracts.

Upon ratification of these amendments, the existing departments and agencies with responsibilities for the land matters covered by Article XI and all their employees; all existing administrative policies, rules, and regulations; all pending matters; and all laws with respect to these departments and agencies shall continue to exist, remain in effect, and continue to operate as if established pursuant to this Article XI if consistent with this Article XI.

Upon ratification of these amendments, all laws pertaining to the homestead program, land exchanges, and other land programs remain in effect until such time as they are inconsistent with a rule or regulation adopted by the bureau. Rules and regulations adopted by the bureau within its jurisdiction supercede existing legislation.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE CIVIL SERVICE COMMISSION

-2002-

P.O. BOX 5150 CHRB
SAIPAN, COMMONWEALTH MARIANAS 96950
TEL. NOS: (670) 234-6925/7327/6958/8036
FAX NO: (670) 234-1013

July 11, 1995

Via Facsimile: 322-2270

Deanne Siemer, Esq.
Co-Lead Counsel
THIRD NORTHERN MARIANA ISLANDS
CONSTITUTIONAL CONVENTION
Caller Box 10007
Saipan, MP 96950

Re: Proposal(s) On Civil Service Commission

Dear Ms. Siemer:

Thank you for the time provided to the Civil Service Commission by Rodney Jacob, one of your staff attorneys, to discuss the proposals relating to Article III, Section 16, and Article XX. Regrettably, the Commission members were unavailable to meet with us to address the July 11th proposal set forth by the Committee on Judiciary and Other Elected Offices. However, we appreciate Mr. Jacob's visit on Tuesday, July 11, 1995, and today, July 12, 1995, to solicit comments and concerns from the Commission.

I direct you to the Commission's June 20, 1995 letter signed by Chairman Eugene Santos. I believe the Commission will have concerns in comparison with what is on the proposal. Most of the concerns stated in the letter were discussed with Mr. Jacob, and other comments I made, I believe, are consistent with the position of the letter.

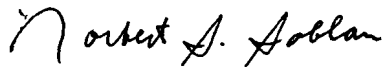
In reviewing the Committee report on the proposal, we noticed there were sixteen (16) Delegate Proposals considered by the Committee regarding the Articles (III and XX). Specifically, Proposal Nos. 8, 178, 247, 296, 349, 535, 536, 537, 538, 539, 540, 541, 550, 552, 574, and 568. The Commission was requested to comment only on Proposal Nos. 85 and 273. It submitted its response to these two proposals on June 22, 1995, and was not aware there were others.

The issues before the Con-Con regarding the Commission's status and its Constitutional duties are of high significance to us since they would affect all employees within the system for the next 10 years or so. We therefore respectfully request that the Commission be apprised of further proposals and scheduled hearings. We would like to, at the very least, be able to comment on changes that the Delegates are considering with respect to Articles III (Section 16) and XX.

Deanne Siemer, Esq.
July 11, 1995
Page Two

Please let us know of any additional proposals received for consideration by the Delegates and of future hearing dates. Again, I thank you for the valuable time with Mr. Jacob. We welcome any opportunity you may provide us to comment or give additional information.

Sincerely,



NORBERT S. SABLAN
Executive Assistant

cc: Chairman
Board Members



Third Northern Mariana Islands Constitutional Convention⁻²⁰⁰⁴⁻

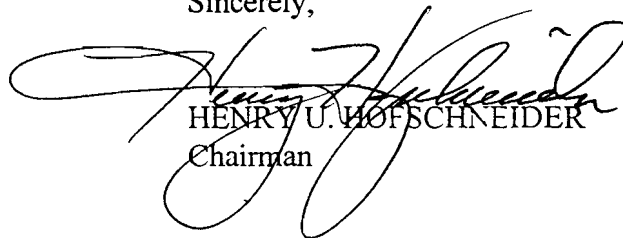
June 22, 1995

Pedro P. Castro
President, Parents Teachers Association
San Antonio School
P.O. Box 1370
Saipan, MP 96950

Dear Mr. Castro:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to examine it.

Sincerely,



HENRY U. HOFSCHEIDER
Chairman



Third Northern Mariana Islands Constitutional Convention⁻²⁰⁰⁵⁻

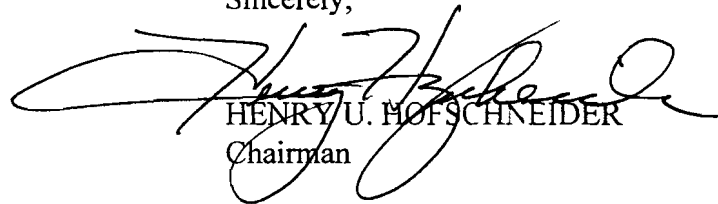
June 22, 1995

Thomas C. Camacho
President, Parents Teachers Association
Gregorio T. Camacho School
P.O. Box 1370
Saipan, MP 96950

Dear Mr. Camacho:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to review it.

Sincerely,



HENRY U. MOFSCHNEIDER
Chairman



Third Northern Mariana Islands Constitutional Convention²⁰⁰⁶⁻

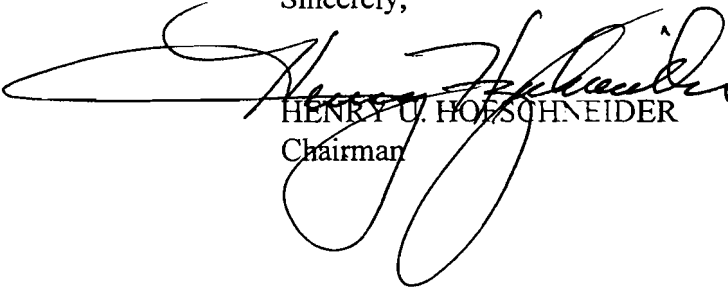
June 22, 1995

Dr. Joaquin A. Tenorio
President, Parents Teachers Association
Garapan Elementary School
P.O. Box 1370
Saipan, MP 96950

Dear Dr. Tenorio:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to review it.

Sincerely,



HENRY U. HOESCHNEIDER
Chairman



Third Northern Mariana Islands Constitutional Convention ⁻²⁰⁰⁷⁻

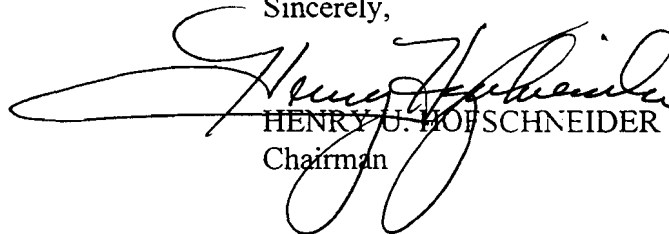
June 22, 1995

Thomas C. Camacho
President, Parents Teachers Association
Gregorio T. Camacho School
P.O. Box 1370
Saipan, MP 96950

Dear Mr. Camacho:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to review it.

Sincerely,



HENRY J. HOF SCHNEIDER
Chairman



Third Northern Mariana Islands Constitutional Convention-2008-

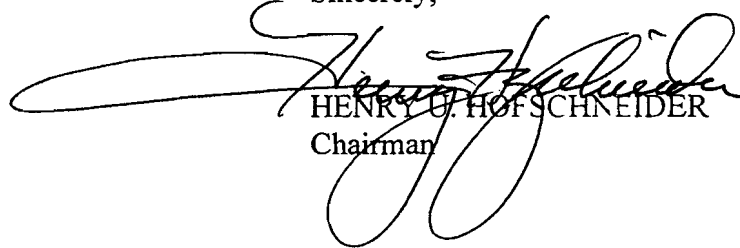
June 22, 1995

Daniel O. Quitugua
Chairman, Board of Education
Public School System
P.O. Box 1370
Saipan, MP 96950

Dear Mr. Quitugua:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to examine it.

Sincerely,



HENRY U. HOF SCHNEIDER
Chairman



Third Northern Mariana Islands Constitutional Convention ⁻²⁰⁰⁹⁻

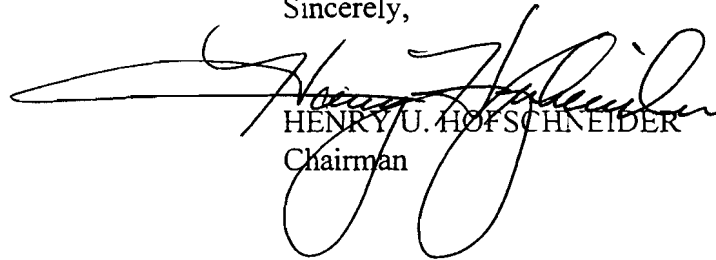
June 22, 1995

Agnes M. McPhetres
President
Northern Marianas College
P.O. Box 1250
Saipan, MP 96950

Dear Ms. McPhetres:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to examine it.

Sincerely,



HENRY U. HOFSCHEIDER
Chairman



Third Northern Mariana Islands Constitutional Convention²⁰¹⁰⁻

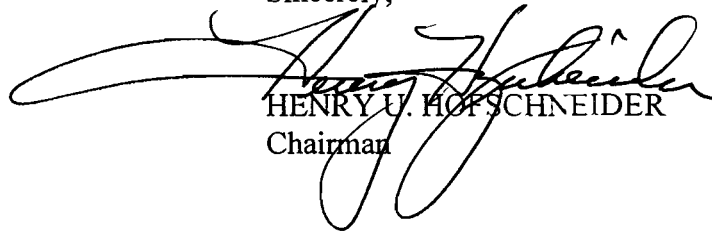
June 22, 1995

Roman Benavente
President, Parents Teachers Association
San Vicente School
P.O. Box 1370
Saipan, MP 96950

Dear Mr. Benavente:

Thank you for testifying before the Committee on Judiciary and Other Elected Offices on the proposed amendments to Article XV of the CNMI Constitution. The transcript of your testimony, as well as the entire public hearing, has been prepared and is ready for your review. Please contact Pamela Carlson at telephone numbers 664-0991/5377 for a copy of the transcript should you desire to examine it.

Sincerely,



HENRY U. HOF SCHNEIDER
Chairman