

THIRD NORTHERN  
MARIANA ISLANDS  
CONSTITUTIONAL CONVENTION  
DAILY JOURNAL  
FORTY-SIXTH DAY

Thursday, July 20, 1995

**PRESIDENT GUERRERO:** The 46th day of the Third Northern Marianas Constitutional Convention is hereby called to order.

Please stand for a moment of silence.

(A moment of silence was had.)

**PRESIDENT GUERRERO:** Thank you.

On preliminary matters, we need to catch up to date, so I am going to extend the session until we get finished with the agenda. We have five articles ready for consideration, and I want to continue until we complete all of them. So the Committee meetings for this afternoon may be preempted and canceled.

Con-Con secretary and clerk, please, roll call.

(Convention Clerk called the roll).

**CONVENTION CLERK:** Mr. President, we have all 27 delegates present.

**PRESIDENT GUERRERO:** Thank you. We have the quorum to conduct our session and do official business of the Convention.

**DELEGATE HOCOG:** Mr. President.

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

**DELEGATE HOCOG:** I would like to move to adopt the Daily Journal of July 17th and 18th.

(The motion was seconded).

**PRESIDENT GUERRERO:** It has been moved and seconded to adopt the Daily Journal from July 17 and 18.

Discussion? Yes, Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Mr. President, I am submitting a minor change regarding my statement and the statements of Delegate Hocog and Igitol.

**PRESIDENT GUERRERO:** Are you making changes in your own statement or are you making changes in somebody else's statement because it is not your prerogative to make changes for other delegates.

**DELEGATE VILLAGOMEZ:** I am making changes in mine.

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

**DELEGATE HOCOG:** I would like to have the clerk authorized to make typographical corrections on those

words that have been mistyped or misspelled.

**PRESIDENT GUERRERO:** Okay. Delegate Igitol.

**DELEGATE IGITOL:** There is a word before my name.  
I am requesting to remove that.

**PRESIDENT GUERRERO:** Perhaps you can tell the  
staff which word and it will be taken out.

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

Motion carried.

Mr. Floor Leader.

**DELEGATE HOCOG:** I move to adopt the Summary  
Journal of July 18.

**PRESIDENT GUERRERO:** It has been moved and  
seconded to adopt the Summary Journal of July 18.

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

Motion carried.

Moving to the next order of business, Reports  
of the Committees. From the Committee on Organizations  
and Procedure.

As to the schedule, our goal is still to get  
all the articles to the floor on first reading this  
week by the time we finish the plenary session on  
Saturday.

We have Article 3, Article 10, Article 15, Article 18, Article 19 ready to be considered by the Convention today.

As I said at the beginning, I would like to continue the session today until we finish all five articles. That will leave just Article 6, Article 11, Article 12 for Saturday.

The Legislative Committee still has to finish the first draft of the schedule on transitional matters, but we are not going to do that on first reading. We have been looking at these transition provisions for each article as we go along and we will get to the combined version as soon as we can.

As to second reading, we will start second reading on Monday. We plan to take the articles in order, starting with the Preamble and going all the way through the schedule on transitional matters at the end. In order to do this, each of the four committees will need to meet before their articles come up for second reading.

First, the Committee needs to see if there are any proposals that it didn't consider when it reported out for first reading.

We want to be sure that every delegate

proposal has been considered. So we will need a report from the Committee on that.

Second, the Committee needs to take account of the comments and suggestions that were made on the floor during the first reading and decide if any of those changes should be adopted.

Third, the Committee needs to consider any delegate amendments that have been referred to it by COP.

The Committee should issue a report for second reading telling the delegates if there are any changes to be proposed in what was passed on first reading. If there are no changes recommended by the Committee, there should be a very short report stating that so delegates who have amendments know they need to make them on the floor.

We will distribute a schedule for next week, hopefully tomorrow, that will show what days the committees should be considering the various articles to get them ready for the second reading. We basically have only one more week because we will need to approve the analysis and the full Constitution at the end of our proceedings and that will take a little time to get together. So next week will be a lot of hard work. We

will probably have a plenary session every day.

And I hope that every member and every delegate stands ready. I need the assistance of everyone to join us in assuring that whatever concerns and ideas and comments that you think have not been entertained, bring them forth.

Thank you. At this time I would like to call on the chair on Land and Personal Rights.

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

The Committee on Land and Personal Rights will be considering its report on Article 11 today, if there is time, and tomorrow. We will be ready to report this to the floor on Saturday. I would like to commend at this time the subcommittee on the permanent preserves. The subcommittee was chaired by Delegate San Nicolas and they worked closely with Delegate Villagomez. The subcommittee did an excellent job, and we are incorporating their work into our report.

The Committee is continuing its work on the draft language for Article 12. If we finish this plenary session in time, we will meet this afternoon sometime around 3:00. If not, we will meet tomorrow at 1:30 in the afternoon.

Other delegates are welcome to join us. We

expect to get all the way through Article 12 at our next meeting. Thank you, Mr. President.

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

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

**DELEGATE T. ALDAN:** Thank you, Mr. President. The Committee on Legislative Branch and Public Finance has completed its work on Article 10, and it is on the agenda for discussion this morning.

I think we only have one other item to be covered by the Committee and that is the schedule on transitional matters.

I would like to commend the Committee for their patience, Mr. Chairman. I demand a lot and I understand, coming from them, that I demand a lot. So I appreciate their cooperation and understanding and everything else that comes along with that.

Thank you.

**PRESIDENT GUERRERO:** Thank you, Mr. President. At this time I call on the chair of the Executive Branch and Local Government.

**DELEGATE NOGIS:** Thank you, Mr. President. Your Committee on Executive Branch is finalizing its Article

Article 3, as a result of our session last Saturday, which includes items that were amended for the Committee of the Whole's consideration. At this time we are still continuing our deliberation with regard to Article 6 pertaining to local government.

Thank you, Mr. President.

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

At this time I call on the chair of Judiciary and Other Elected Offices.

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

I am pleased to report that your Committee on Judiciary and Other Elected Offices has completed its work with respect to the articles assigned to the Committee.

I want to thank the Committee members and other members of the Constitutional Convention delegation for their participation and hard work in many long meetings they attended.

I request that our report on Article 15, education, be calendared for today. The report has been distributed in the Daily Journal and another copy has been put on the delegates' desks today.

I request that our revised report on Article 18, Constitutional Amendment and Mutual Consent, also be calendared for today. A copy of our revised report



has been put on the delegates' desks today.

In addition, Mr. President, the Committee has completed the additional assignment given to it by the Committee on Organization and Procedures to review all the delegates' proposals that fell into the category of new or other matters not specifically assigned to one of the four substantive committees. We have submitted a report on our work in this regard and it is in yesterday's Daily Journal.

Let me report just briefly on our findings on these new and other matters. We dealt with 15 delegate proposals. We decided that there was considerable merit to many of them, but that they are all legislative in nature. We will prepare a resolution at the end of our Convention formally transmitting to the legislature all of the good ideas that the delegates and others put in their proposals that were legislative in nature and we will urge the legislature to consider them promptly.

Thank you, Mr. President.

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

We are finished with the reports of the committees. Now we move on to the introduction of

delegate amendments.

Yes, Delegate Villagomez.

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

I introduce delegate Amendment No. 3 amending Article 4, Section 6 on Judiciary.

**PRESIDENT GUERRERO:** Thank you.

Any other amendments? Yes, Delegate Quitugua.

**DELEGATE QUITUGUA:** Thank you, Mr. President. I would like to introduce delegate Amendment No. 4 which amends Article 14 to add a new section on royalties and fees.

**PRESIDENT GUERRERO:** Thank you.

Which article are you amending?

**DELEGATE QUITUGUA:** Article 14.

**PRESIDENT GUERRERO:** Thank you.

Any other delegate amendments? If not, we move on to motions and resolutions.

Delegate Maratita.

**DELEGATE MARATITA:** Thank you, Mr. President. I am hereby submitting a resolution, which will now become resolution No. 9, with the heading: To recognize the occasion of the fiftieth anniversary of the Hiroshima and Nagasaki nuclear bombings and to

mourn the hardship and loss of life suffered by all people affected by the Second World War. I have distributed copies to all the delegates of this resolution, and I am sure they have it before them, and by unanimous endorsement of all the delegates I would like to make a motion for passage of this resolution.

(The motion was seconded).

**PRESIDENT GUERRERO:** Thank you. It has been moved and seconded to adopt resolution No. 9.

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

Motion carried.

Any other motions and resolutions to be entertained? If not, we move on to unfinished business.

If we don't have any, we move on to No. 9.

**DELEGATE HOCOG:** Mr. President.

**PRESIDENT GUERRERO:** Yes.

**DELEGATE HOCOG:** I would like to move to calendar for the Committee of the Whole, Article 10, Taxation and Public Finance, Article 15, Education, and Article 19 on the Code of Ethics for further deliberation by the entire delegation.

(The motion was seconded).

**PRESIDENT GUERRERO:** It has been moved and seconded to calendar for the Committee of the Whole Article 10, Article 15 and Article 19.

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 to move to resolve into the Committee of the Whole to consider those articles.

(The motion was seconded).

**PRESIDENT GUERRERO:** It has been moved and seconded to resolve into the Committee of the Whole to entertain Articles 10, 15 and 19.

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 the president to make an appointment of a member to chair the Committee of the Whole.

If I could have two minutes recess,  
Mr. President.

**PRESIDENT GUERRERO:** Okay. Just two minutes.

(Recess taken from 9:55 a.m. to 10:03 p.m.)

**PRESIDENT GUERRERO:** The meeting has been called

back to order.

At this time I appoint Delegate Lillian Tenorio to preside over the Committee of the Whole, and at this time I call her up to take over.

(Applause).

**CHAIR L. TENORIO:** The Committee of the Whole is now in session. I call on the chairman of the Committee on the Legislative Branch and Public Finance to present the report on Article 10, Chairman Aldan.

**DELEGATE T. ALDAN:** Thank you, Madam Chair. The Committee on Legislative Branch and Public Finance is pleased to report to your delegates its report on Article 10, Taxation and Public Finance.

Can I ask first a question to our legal counsel.

**CHAIR L. TENORIO:** Go ahead.

**DELEGATE T. ALDAN:** Article 2, Section 5 is not mentioned in the calendar. Can we put it on the calendar or will we go back to that?

**MR. WILLENS:** I think it is perfectly all right for the Committee to report out what it proposed to do with Article 2 and if there is any discussion on the floor that has to go back to the Committee, that can be so ordered. Since it is part of the package, I think

it is appropriate that it be considered.

**DELEGATE T. ALDAN:** Thank you.

**CHAIR L. TENORIO:** Proceed.

**DELEGATE T. ALDAN:** The Committee recommends deleting the last sentence under Section 1, which was added in 1985 directing the legislature to define "public purpose." The legislature has failed to enact a definition to assist in determining whether taxes and expenditures are for public purpose. The Committee has proposed a definition. It states that the public purpose is one which directly relates to the functions of government and benefits the people as a whole. The Committee purposefully kept the definition broad since it realizes that the limits of the definition will have to evolve in response to changing circumstances.

**CHAIR L. TENORIO:** Chairman Aldan, do you want to move that the report be adopted by the Committee of the Whole?

**DELEGATE T. ALDAN:** I thought I would reserve that until the end, but, sure, if you want me to do that in the beginning. I like to do it at the end so that I get a feeling of the consensus of the delegates.

**CHAIR L. TENORIO:** I think it is in order.

**DELEGATE T. ALDAN:** So moved to adopt Article 10.

(The motion was seconded).

**DELEGATE T. ALDAN:** Any question on public purpose?

**CHAIR L. TENORIO:** Proceed.

**DELEGATE T. ALDAN:** Section 2, report on tax exemptions: The Committee recommends that this section be deleted in its entirety. The section requires the governor to report every five years on the impact of tax exemptions. No such report has ever been made. The Committee does not see a constitutional need for such a report since tax exemptions are granted by the legislature and are published in the Commonwealth Code.

**CHAIR L. TENORIO:** Any questions?

Proceed.

**DELEGATE T. ALDAN:** Section 3, public debt authorization, now Section 2. The Committee recommends no changes to this section.

Section 4, Public Debt Limitation, now Section 3.

The Committee recommends adding a prohibition against incurring public debt for the sole purpose of retiring a deficit. Incurring debt for such a purpose perpetuates the poor fiscal management that caused the

deficit.

**CHAIR L. TENORIO:** Proceed.

**DELEGATE HOCOG:** Real property taxes: The Committee recommends no change to this section.

**CHAIR L. TENORIO:** Proceed.

**DELEGATE T. ALDAN:** Section 6: Liquidation of Deficits. This is one of the most important things that the Committee addressed in this Article and maybe for the entire Constitutional Convention, the liquidation of deficits.

The Committee recommends two major changes to Section 6, Liquidation of Deficits, which is now renumbered Section 4, Deficit Retirement. First, the Committee recommends deleting the first two sentences which deal with the reduction of the deficit that existed in 1985. That deficit has been retired and there is no longer a need for this language.

However, the Committee is concerned about the large deficits that have been incurred in recent years. A deficit occurs when cash outlays exceed revenues actually collected. Deficits reflect poor fiscal management and have the undesirable effect of mortgaging the Commonwealth's future. The Committee believes that the best way to deal with deficits is to



prevent them from occurring. The proposed amendments to Article 3, Section 9 accomplish this. To deal with the existing deficit, and any deficit that may occur, the Committee recommends that the governor and the legislature be required to retire all deficits within two years of their occurrence. If the deficit exceeds 10 percent of the Commonwealth's projected revenues during the fiscal year in which the deficit is to be retired, the government may take an extra year to retire the deficit. To illustrate, if a deficit occurs in fiscal year 1 it is likely that the full extent of the deficit will not be known until after the governor is required to submit a proposed balanced budget for fiscal year 2 to the legislature. The Committee expects the governor and the legislature to do all they can to retire the deficit during fiscal year 2. If that does not occur, the governor must submit, as part of the budget submission for fiscal year 3, a plan to reduce the deficit for fiscal year 1 and any other deficit that may remain. If the outstanding deficit exceeds 10 percent of the projected revenues for fiscal year 3, the deficit may be retired in fiscal year 3 and must be retired by the end of fiscal year 4. The Committee wishes to avoid a situation in which so much

of the annual budget is applied to deficit reduction that essential government services must be curtailed.

The Committee also recommends that general salary and hiring freezes go into effect as soon as the deficit is identified, even in the middle of a fiscal year and even if the personnel costs have already been allocated, and continue until the deficit is retired. The Committee believes that excessive personnel costs at all levels of government are a principal contributor to deficit spending in the CNMI and the Committee believes that salary and hiring freezes will assure that the deficit is retired as quickly as possible. The Committee intends that the freeze not be evaded by indirect action such as by contracting for services that would have been performed by the employees in the frozen positions. To permit the government to function effectively during the freezes, the Committee recommends exempting from the hiring freeze positions subject to the legislative confirmation, division directors and positions that the governor and two-thirds of the legislature agree are essential to public health and safety.

**CHAIR L. TENORIO:** Questions?

Mr. President.

**PRESIDENT GUERRERO:** I have a concern, Madam Chair, and this is just a concern and I want to know if the Committee addressed it.

Let's say, for example, that the legislature, its legal counsel leaves and they need to replace them or replace one or, let's say, both of them leave and they need to have one immediately, it will certainly jeopardize the legislature in terms of carrying out its duties and responsibilities. So how is this thing going to be addressed? Can the chair enlighten me on this matter, please?

**CHAIR L. TENORIO:** Chairman Aldan.

**DELEGATE T. ALDAN:** That's a very good concern. We did look into all the different areas where a freeze should not be implemented and the last statement excepts: "Positions that the governor and two-thirds of the legislative agreed are essential to public health and safety." I think that would only be true in terms of addressing essential positions.

I hope that the legislature does not fire both legal counsel at the same time.

**PRESIDENT GUERRERO:** Thank you, Madam Chair.

**CHAIR L. TENORIO:** Any other questions?

Chairman Aldan.

**DELEGATE T. ALDAN:** Section 7: Government Employment, now Section 6.

The Committee recommends deletion of the second sentence in this section which permits employment ceilings to be changed by joint resolution. The Committee believes that the legislature and the governor together should set employment ceilings in the annual appropriation acts. Raising employment ceilings after the budget has been enacted is poor fiscal management and leads to deficit spending.

**CHAIR L. TENORIO:** Questions?

Proceed Chairman Aldan.

**DELEGATE T. ALDAN:** Section 8: Control of Public Finance. The Committee recommends deleting the last sentence of the existing section dealing with departmental regulations and adding a new sentence providing that the Secretary of Finance be removed for cause only. The Committee concluded that the direction of the Department of Finance to promulgate regulations was legislative in nature and had been accomplished. The Committee, therefore, recommends it be deleted.

The Committee agrees with the recommendation of the Committee on Executive Branch and Local Government that the Secretary of Finance should be

removed for cause only. This safeguard is designed to emphasize the independence of this position and to enable the secretary to control government spending consistent with good management practices and procedures. It is not intended to eliminate the right of the incoming governor to appoint a new secretary. Both committees agreed that it was appropriate to insert this protection in this section.

**CHAIR L. TENORIO:** Any questions?

Procedure Chairman Aldan.

**DELEGATE T. ALDAN:** New Section 8: Tax Rebate Trust Fund.

The Committee recognizes the importance of safeguarding tax payments held for rebate purposes. The Tax Reform Act of 1995 deleted the requirement that tax rebate funds be deposited in a trust account. Although the rebate funds continue to be deposited in a separate bank account, the Committee believes it is important to safeguard these funds as much as possible by keeping them in a trust account and preventing them from being used for any purpose other than rebates. The Committee was mindful of the recent experience in Guam where the government had to borrow money for tax refunds. The legislature can provide for the creation

and administration of the rebate trust account. Income earned by the trust account shall go into the general fund.

**CHAIR L. TENORIO:** Any questions?

Proceed Chairman Aldan.

**DELEGATE T. ALDAN:** Section 9: Taxpayer's Right of Action.

The Committee recommends authorizing taxpayer suits to enjoin any expenditure of funds in violation of this Constitution or the United States Constitution.

The present language which permits suits to enjoin public spending for other than public purposes or breach of fiduciary duty lacks the desirable clarity. Permitting a taxpayer suit to enjoin any unconstitutional expenditure provides a clear standard for the public and the courts.

**CHAIR L. TENORIO:** Any questions?

Mr. President?

**PRESIDENT GUERRERO:** I just need a clarification. I know we included the United States Constitution. Can the chair enlighten me as to why this is included or give an example.

**CHAIR LILLIAN TENORIO:** Chairman Aldan.

**DELEGATE T. ALDAN:** Of the U. S. Constitution?

**PRESIDENT GUERRERO:** Yes.

**DELEGATE T. ALDAN:** That is to be sure that we cover everything that is not otherwise covered in our Constitution. I don't know for sure whether it will happen, but maybe I ask the legal counsel to give us an example of when it will happen.

**MR. WILLENS:** Under the Commonwealth law as it stands, the right to have a taxpayer suit to enjoin spending, a suit of the kind that is being inquired about, would be a suit to enjoin spending by the Commonwealth government, for example, that offends the United States Constitution. The United States Constitution does exercise certain restraints under the authority of the Commonwealth here just as it does the authority of any state.

If, for example, the Commonwealth government were to seek to apply funds that denied a public benefits, for example, on some discriminatory basis a taxpayer lawsuit could be filed under both the Commonwealth Constitution and United States Constitution. It doesn't pertain to monies necessarily being spent by the United States or doesn't involve the taxpayer's payment of taxes to the United States

government, but a Commonwealth taxpayer would have the authority to challenge the expenditures by Commonwealth officials on such grounds as I identified.

**CHAIR L. TENORIO:** Mr. President continue.

**PRESIDENT GUERRERO:** Are there any repercussions on this one that will be detrimental to the Commonwealth.

**MR. WILLENS:** None that I can think of. On the whole it is a benefit to recognize expressly in the Constitution that taxpayers do have these rights. You do not need this provision in the Constitution since there are certain taxpayer rights that exist under general Commonwealth law and United States law. But the Committee thought after deliberation that it might be best to constitutionalize this particular taxpayer suit in order to enforce the Constitution and its amendments that you are in the process of considering.

**PRESIDENT GUERRERO:** Thank you.

**CHAIR L. TENORIO:** Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Thank you, Madam Chair. I would like the present language to be toughened up and give the opportunity for a taxpayer to file a lawsuit against any government official who is in violation of their fiduciary duty and is misappropriating the



people's money.

**CHAIR L. TENORIO:** Any other questions or comments?

Delegate Gonzales.

**DELEGATE GONZALES:** Just two minor questions, the first of which is the Covenant says that we are under the laws of the United States and the United States Constitution. To the extent that is the case, do we need to still make it explicit in this particular provision of Article 10?

**CHAIR L. TENORIO:** Chairman Aldan, do you want legal counsel to respond to that?

**DELEGATE T. ALDAN:** I will leave it to legal counsel. I think it would be nice to have it clear in our Constitution.

**MR. WILLENS:** That is correct, Delegate Gonzales. That refers only to the United States Constitution. It does not refer to applicable United States laws, and so it is not a concession, or in any way limits the rights of the Commonwealth, by acknowledging that taxpayer suits to enforce compliance with the United States Constitution are an appropriate method in the Commonwealth to protect your rights.

**DELEGATE GONZALES:** Second question, with the

adoption of this, with the addition of the United States Constitution, would this give more flexibility to mainland U.S. citizens to sue the government for misappropriating or misusing CIP funds or federal funds?

**MR. WILLENS:** I think probably not. I think probably they have these rights under the law as it presently stands as interpreted by the Commonwealth Supreme Court.

**DELEGATE GONZALES:** I am just concerned because we don't want to, as Mr. President, mentioned, we don't want to be caught with unexpected repercussions now or in the future. I just wanted to raise these concerns.

Thank you.

**CHAIR L. TENORIO:** Any other questions or comments?

Chairman Aldan, proceed.

**DELEGATE T. ALDAN:** I would like to go now to Article 2, Section 5 (a), Enactment of Legislation.

The Committee recommends adding two sentences to this section which deals with the enactment of appropriation bills.

First the Committee recommends that every expenditure of public funds be authorized in an

appropriation bill. The Committee believes it is fiscally irresponsible for expenditures to be authorized by resolutions or other devices that do not contain the safeguards built into the appropriation process.

Second, the Committee believes that the legislature should not enact new or expand existing programs that require public money to be spent without funding the programs. The Committee is aware that the legislature has enacted a Workers' Compensation program, and I would like to strike a drug control program and a youth program. That should be stricken and just mentioned "Workers' Compensation program and a Tax Task Force" without funding them.

This, unfortunately, creates the impression that the legislature has responded to a public need when, in fact, the response has been an empty one. There is no good reason for such legislative irresponsibility and the Committee recommends it be stopped.

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

Thank you.

**CHAIR L. TENORIO:** Delegate Gonzales.

**DELEGATE GONZALES:** Chairman Aldan, I am just curious why the deletion of the drug control program and youth affairs program.

**DELEGATE T. ALDAN:** To the best of my recollection, that was an action by Executive Order 94-3 which created a drug control program and youth affairs program and not necessarily directed by the legislature. Maybe it would be better if we say also that the legislature and the governor shall not create new or expand existing programs that require public money to be spent, without necessary funding, because the governor is free to make an appointment for a special assistant and I think such a creation should follow with appropriate funds.

At this time I would suggest that we provide for such language, if not in the Constitution maybe in the, legislative history of the Constitution.

**CHAIR L. TENORIO:** Mr. President.

**PRESIDENT GUERRERO:** Yes, Madam Chair.

I want to be clear that Section 5 of Article 2, especially Subsection (b) that the bill shall be confined to one subject except for appropriations. As you know, one of the biggest problems of the

legislature, and it is still condoned by the existing legislature, is to provide riders that they know are unconstitutional but they keep putting them in because they have been doing it and nobody has challenged it and it is not subject to judicial review. .

There has to be a mechanism to ensure that any amendment to the existing statute, that is attached to an appropriation is measure subject also to veto by the governor, because if it is not subject to judicial review, there is a need to ensure compliance because we cannot condone the legislature violating the Constitution. Just because they have been practicing it; it has been done in the past, that doesn't mean it is right.

**CHAIR L. TENORIO:** Chairman Aldan.

Are you finished Mr. President?

**PRESIDENT GUERRERO:** No. Can I continue on the other one?

**CHAIR L. TENORIO:** Continue.

**PRESIDENT GUERRERO:** The other is to ensure what the chair has mentioned. Regarding the legislature shall not enact a law which requires the expenditure of public funds without appropriating the funds, I would prefer language that says no public funds shall be

expended without the legislature appropriating the funds. That also covers the governor in the event he establishes an office. It doesn't prevent him but at least it works both ways. We just want to be sure there is equity and funds are there first or he's given the authority to reprogram to fund it. It makes it difficult if a program or something is being funded without the specific authorization first and we want to ensure that it doesn't add to the deficit.

The other aspect I wanted to raise, Madam Chair, is that the legislature, when they enact an appropriation bill, sometimes they give themselves the authority to say that we are going to amend it by a joint resolution. I want to make sure that the Legislature cannot try to get around the intent of the Constitution. So if they are going to amend an appropriation bill, that should be by a bill itself and not by a joint resolution. Thank you, Madam Chair. I would ask that perhaps the chair of the Committee enlighten the Convention.

**CHAIR L. TENORIO:** Chairman Aldan.

**DELEGATE T. ALDAN:** Yes, Madam Chair. Thank you. Appropriation bills shall be limited to the subject of appropriations. In other words, if the legislature

adds anything other than appropriations I deem that to be null and void because it violates the Constitution.

On the second issue, it states under Section 5 (a): "Every expenditure of public funds must be authorized in an appropriation bill."

That is addressed specifically to what he stated or what his concern is.

**CHAIR L. TENORIO:** Excuse me, Chairman Aldan.

Pause for a change of tape.

(Pause).

**CHAIR L. TENORIO:** Proceed.

**DELEGATE T. ALDAN:** Maybe not in the language he stated, but I think it is very clear that every expenditure of public funds must be authorized in an appropriation bill.

And, third, the legislature may not enact a law except by a bill. A joint resolution cannot or will no longer change a law.

I think it is quite clear. Those concerns of the president are pretty well addressed in the language as he wanted them to be.

**CHAIR L. TENORIO:** Thank you, Mr. Chair.

Mr. Floor Leader.

**DELEGATE HOCOG:** Yes, Madam Chair, based on the

recommendation made by the good chairman on the legislative Committee, I would like to then make a subsidiary motion that we strike out the-- to insert a word "and" between "the Workers' Compensation program" and "tax task force" and to delete the following sentence: "A drug control program and youth affairs program. "

(The motion was seconded).

**CHAIR L. TENORIO:** There is a motion to insert the word "and" between "program" and "a tax task force" and delete "a youth affairs program" and it has been seconded.

All those in favor of the motion say "Aye."  
Those opposed say "Nay."

Motion carried.

Mr. Floor Leader.

**DELEGATE HOCOG:** Madam Chair, I would like now to go back to the previous question to adopt the report of the Legislative and Public Finance committee.

(The motion was seconded).

**CHAIR L. TENORIO:** There is a motion on the floor to approve the report as amended. All those in favor of the motion say "Aye." All those who oppose say "Nay."



Motion carried.

**DELEGATE T. ALDAN:** Can I say something, Madam Chair.

**CHAIR L. TENORIO:** Chairman Aldan.

**DELEGATE T. ALDAN:** I would like to thank the delegates for their support of Article 10.

I am real happy and glad. Thank you.

(Pause).

**DELEGATE HOCOG:** So are your Committee members.

**CHAIR L. TENORIO:** We will now proceed to Article 15. I call on the chair, Chair Henry Hofschneider to present the report.

**DELEGATE HOFSCHEIDER:** Thank you, I move to adopt in the Committee of the Whole the report of Judiciary and Other Elected Offices on Article 15, Education.

(The motion was seconded).

**DELEGATE HOFSCHEIDER:** Madam Chair, I now yield to the subcommittee chairperson, Delegate Chair Esther Fleming.

**CHAIR LILLIAN TENORIO:** Subcommittee Chair Fleming.

**DELEGATE FLEMING:** Thank you, Madam Chair.

At this time I would like to explain the decisions that the Committee reached after we last presented this proposed article to the Committee of the

Whole. I would like to take it section by section and answer any questions as we go along. I will deal first with what is in the proposed language and then I will explain what we propose to delete from the present provision. Last, I will explain the transition and how we would get from the current system to the new system.

On Section 13 (a), there is no change and it remains to say, "Education is compulsory within the age levels and grade levels set by the legislature."

**CHAIR LILLIAN TENORIO:** Any questions?

Proceed.

**DELEGATE FLEMING:** Under Section 13 (b), we have provided that the Secretary of Education is appointed by the governor with the advice and consent of the Senate. We have deleted any specific educational requirements for the secretary's job, although we have explained in the legislative history that an advanced degree of some kind is expected. The current law requires a Master's degree, and that law would remain in effect after this amendment is passed.

**CHAIR L. TENORIO:** Any questions? Proceed.

**DELEGATE FLEMING:** Section 13 (c). We have provided for elected school boards that have five

members in order to allow broader participation by parents and others from the community. These local boards take the place of the current Commonwealth Board of Education, which would be deleted. We have given the local boards four-year terms in order to provide for stability in governing the school system. We have provided that the elections would be nonpartisan so that candidates for school boards may not advertise or run with party affiliations. Vacancies are to be filled by the next highest vote getter. If there is no one who qualifies as the next highest vote getter, then the school board may appoint someone from the district. We have provided that the local school board system will remain in effect for the least 10 years. After that, the legislature can come in and make changes to the system if there is a better way to ensure high-quality education.

**CHAIR L. TENORIO:** Questions? Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** This is to Delegate Fleming.

This is just hypothetical. There are six people that ran; five won; four have decided to resign. What is going to happen?

**CHAIR L. TENORIO:** Delegate Fleming?

**DELEGATE FLEMING:** Can the delegate repeat his concern.

**DELEGATE VILLAGOMEZ:** Under the provision, if there is a vacancy, the next highest vote getter is appointed by the board. There are six that ran; there is a vacancy; there are five that won; there is one vacancy; so the No. 6 person will be appointed. But my question is what if out of the five, four resign or maybe die, what happens? I mean it is a hypothetical.

**CHAIR L. TENORIO:** Delegate Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** By statute it will follow the same procedure and we will have to put in language that the governor has to appoint someone.

**DELEGATE VILLAGOMEZ:** It is in the language?

**MR. WILLENS:** It seems to me the Committee will consider that further. As I understand the hypothetical one person stays on the board. The defeated candidate comes on the board and there are two of them to fill the other three positions. The language of the committee did, I think, deal with that circumstance if it were ever to happen. But I think those hypothetical problems can probably be wrestled with more in the committee if there is a real problem

here.

**CHAIR L. TENORIO:** Delegate Maratita.

**DELEGATE MARATITA:** I would raise a concern as to the question Delegate Villagomez posed.

Since this is a local election, a local board, I indicated that last time when I was in the Committee meeting, that for any vacancy, I think the premise of the mayor filling vacancies on the particular local boards is the right way and would, I think, resolve that question as to when all five board members resigned.

**CHAIR L. TENORIO:** Delegate Fleming.

**DELEGATE FLEMING:** We will take those into consideration. In as much as we don't want to put it right in the language of the Constitution, we can note those into the transition, either having the mayors appoint or going for a special election, but it would it be in the legislative history.

**CHAIR L. TENORIO:** Delegate Floor Leader Hocog.

**DELEGATE HOCOG:** Do you think, Mr. Counsel, it would be in the best interest to put that in the legislative history rather than putting it in the amendment, constitutional provision.

**MR. WILLENS:** It seems to me the committee ought

to give that further consideration. We are dealing with a very hypothetical situation but I think Delegate Fleming was exactly right in saying they can consider it and think of alternative ways to deal with it.

**CHAIR L. TENORIO:** Delegate Villagomez,

**DELEGATE HOCOG:** Ma'am I am not finished.

**CHAIR L. TENORIO:** I apologize. Mr. Floor Leader.

**DELEGATE HOCOG:** We would like to take action in this Committee of the Whole as I believe the Article 15 will be placed on first reading today and I would like the delegates to seriously consider whether we will make that change now or we will make the changes during the first reading of the article.

**CHAIR L. TENORIO:** Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** There are several options. Perhaps the school board can appoint or maybe the mayor can appoint. So I move that the mayor of the municipality appoint.

**DELEGATE HOFSCHEIDER:** Point of information. We have that on the Committee report, on page 9 on Vacancies, but you are asking, a hypothetical question: In case five resign how would the board be replaced, but Vacancies is on page 9 of the Committee report.

**CHAIR L. TENORIO:** Mr. President.

**PRESIDENT GUERRERO:** Madam Chair, let's say that you have four of five that resign or they all die of food poisoning or something, eating the food in the school, then it's best that we just have an election. That is more democratic. The question is what happens if a decision needs to be made locally? I think that should fall back to the superintendent or the secretary and give him that discretionary authority during a transitional period. But if you have mass death or mass resignation, we should have something that would trigger within 30 days an election rather than waiting for the legislature to go through the process of enacting a special election day and all these things. It is not in the best interests to leave it to the legislature. The superintendent should have certain discretionary authority to step in to ensure that the school continues even in the absence of the board because we cannot allow our students to suffer just because of irresponsibility on the part of the board if they all decide to resign. Of course there is nothing you can do if they die.

It does happen, something like that. That is the best approach, Madam Chair.

**CHAIR L. TENORIO:** Mr. Floor Leader.

**DELEGATE HOCOG:** Yes, I guess, Madam Chair, the issue of elected board is for each senatorial district, I believe, and if that happens I would like the Committee to consider giving the authority to the mayor to appoint and fill the vacant position of any elected Board of Education member who decided to resign, or died. I would like to treat that differently, however, to the Saipan Board of Education. I believe the authority for the office of the mayor is somewhat different than on the islands of Rota and Tinian and I move for a short recess to iron that out.

(The motion was seconded)

(Recess taken from 10:43 a.m. to 11:00 p.m.)

**CHAIR L. TENORIO:** We resume our Committee of the Whole session.

I recognize Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** Thank you, Madam Chair.

I would like to address the discussion on vacancies. I would like to make a motion to change on this section to include in subsection (c) of Article 15. If three or more vacancies exist and more than one half of the term remains, a special election to fill the vacancies shall be scheduled by the Board of



Election within 30 days. If less than one half of the term remains, then the vacancy shall be filled by the Secretary of Education. And this second portion. Recommendations will be made by participating groups such as PTA and other interest groups of the school, to the Secretary.

That is a motion.

(The motion was seconded).

**CHAIR L. TENORIO:** There is a motion on the floor and it has been seconded.

Discussion?

All those in favor of the motion say "Aye."

All those opposed say "Nay."

Motion carried.

Delegate Fleming, proceed.

**DELEGATE FLEMING:** Section 13 (d). This remains the same as it was presented last week. In order to ensure that the priority is on instruction and that each school and each senatorial district is treated equally, we have provided that the appropriation for instruction that is for teachers and materials shall be allocated on per enrolled student basis. The Committee provided in the legislative history that Rota and Tinian will not have to bear the extra costs for

shipping, communications and food service and related costs out of their per student share. There will be an extra appropriation for those items in the portions of appropriations for administration and CIP that are not done on a per capita basis.

**CHAIR L. TENORIO:** Discussion? Delegate Gonzales.

**DELEGATE GONZALES:** I was wondering if the Committee took into consideration the issue with regards to the fiscal year. The opening of the school year, especially with the multi-track and what not; that is one of the issues that was brought up by both the NMC and the PSS.

**CHAIR L. TENORIO:** Delegate Fleming?

**DELEGATE FLEMING:** When we addressed that one, we decided that we should leave flexibility for the Secretary of Education to set the appropriations for the school.

**PRESIDENT GUERRERO:** Point of information, Madam Chair.

**CHAIR L. TENORIO:** Mr. President, state your appoint.

**PRESIDENT GUERRERO:** Madam Chair, I understand the House has passed enabling legislation to change the fiscal year for public education as well as the college

and it is currently sitting at the Senate. So this is a legislative matter that the legislature, in their great wisdom, decided to address. Perhaps it is going to go through and it will be addressed.

Thank you, Madam Chair.

**CHAIR L. TENORIO:** Delegate Gonzales continue.

**DELEGATE GONZALES:** I am concerned about that.

Again, I was one of the people affected when I was in the college back then. It was an issue that has been brought up prior to now, and as the president mentioned, it's still collecting dust in the House and is now in the Senate. This is one of the critical essential issues and services that we need to protect and preserve.

Again, with all due respect to the people who have a lot of trust and confidence in the wisdom of our public officials, I still believe that we should have some mechanism to protect and ensure the schools and to give flexibility to the schools in light of the difference in the opening of their school year as opposed to the standardized fiscal year of October 1st. I hope the Committee takes that into consideration. Thank you.

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**DELEGATE ALDAN-PIERCE:** We will go to

Mr. President, Delegate Villagomez and Delegate Quitugua.

Mr. President.

**PRESIDENT GUERRERO:** Thank you, Madam chair and I apologize for going off in terms of my point of information.

Madam Chair, I still think that they should be left to the legislature, the amendments of Delegate Gonzales because, as we know, the public school system is trying the multi-track system, whatever that is, but they might have a full year, school year. So when you start doing those things it might be best to leave it the legislature to ensure that as time progresses and as the environment changes or circumstances changed here in the Commonwealth, that they have that flexibility. To lock it in, they are going to be sorry. That's purely a legislative matter. I still have my trust in the legislature to do this.

Thank you, Madam Chair.

**CHAIR L. TENORIO:** Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Madam Chair, I want point out that in Article 2, the legislative branch, that issue is addressed and also the present law, the Planning and Budget Act, addresses the problem of PSS

money and the college.

**CHAIR L. TENORIO:** Delegate Quitugua.

**DELEGATE QUITUGUA:** Perhaps the concern is whether the materials are ordered to be here on time for the school to open.

In previous practice with PSS instructional materials are ordered one year in advance. For example, the materials for next school year are already ordered for this school year .

The PSS does not wait until the next appropriation comes up to order their needed materials. That is done one year ahead of time and that takes care of the fiscal year, whether it be July or October or December or whatnot.

**CHAIR L. TENORIO:** Any other questions or comments?

Delegate Aldan.

**DELEGATE T. ALDAN:** I am a little bit behind schedule, Madam Chair. I don't know where the fiscal year comes in in the presentation, but I support Delegate Quitugua's contention the fiscal year is not a material issue here and should be left as is. It is a manner of appropriate planning and budgeting in each of the departments, for that matter, that you allocate

your funds and use your funds.

I have one concern with respect to the allocation of funds. I am not too clear on this issue. My understanding is once appropriated it would be allocated to the respective senatorial districts. I would like a clarification on that word "allocation."

Does it mean that the secretary will disburse money representing the total appropriation for each senatorial district to the board, or does it mean that that would be the practice, and that the secretary will issue payments based upon that budgetary constraint for purchase, payments and what have you in disbursing such money.

I would just like a clarification on how that is being proposed to be addressed.

**CHAIR L. TENORIO:** Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** The Committee has reviewed that and what you stated in your second concern, Tom, is what is going to remain.

**DELEGATE T. ALDAN:** Thank you.

**CHAIR L. TENORIO:** Any further questions?

If not, proceed, Delegate Fleming.

**DELEGATE FLEMING:** Thank you, Madam Chair.

Section 13 (e), we have restored the general



language with respect to higher education that was in the 1976 Constitution. Nothing in this general language affects the college. We have deleted the specific language in the Constitution that applies to them but they are taken care of by a statute that provides for their president and board of regents and their autonomy. Nothing in this section affects their accreditation in any way. If they provide quality education they will continue to be accredited. But this section does allow the legislature the flexibility to create other institutions of higher learning or to decide to fund all college students with scholarships to the states depending on circumstances in the future.

**CHAIR L. TENORIO:** Any questions?

Delegate San Nicolas.

**DELEGATE SAN NICOLAS:** Thank you, Madam Chair Tenorio. First of all, I would like to say you are doing a fine job up there.

I just want to voice the concern of certain people in the education field. One thing that many of us have brought up in the past, especially before the Con-Con, was that there were certain mistakes that were done in 1985 that we should try to rectify this time.

I try not to look at the mistakes. I want to look at certain things that were good that came out of the 1985 Con-Con and one of those things was the provision that allowed for a certain percentage that is earmarked towards the institutions, PSS and NMC.

I have listened to subcommittee Chair Fleming and I have talked extensively with Chairman Hofschneider. I understand their concerns and I understand that guaranteeing anything does not ensure the quality of anything, but one thing that I would like to point out is the fact that since it is in our Constitution, since it is constitutionalized that a certain percentage goes to education, that in my mind provides for fiscal stability; that in my mind provides for political autonomy. We talk about accreditation and the subcommittee chair pointed out this will not affect the accreditation. I sincerely hope it does not, should this go through.

But allowing a certain percentage, allowing what has been happening in the past ten years to continue to occur, ensures stability, ensures political autonomy. I have barely gotten into education myself and I stand to be corrected about everything I say about education. I would like to voice my concern that

leaving a constitutional requirement of a certain minimum percentage of our funds going to education, it does allow for these institutions to be accredited, to be assured that accreditation, and again I beg to be corrected if I am wrong in what I am stating.

Thank you.

**CHAIR L. TENORIO:** Thank you.

Mr. President.

**PRESIDENT GUERRERO:** Thank you, Madam Chair.

I don't agree with earmarking. The fact is that all funds need to be justified and accounted for. It will be foolish on the part of the legislature not to provide the necessary funding for the public school system.

The fact that in every election they keep saying that the children of the Commonwealth are the future leaders is a lot of lip service that needs to be translated into action.

You cannot ignore the parents; neither does the staff and employees of PSS. It is one of the largest employers in the Commonwealth and if you are running for public office you have to be attuned to the wishes of educators.

There are good things to be said in terms of

what the PSS or educators are doing. There are mixed feelings out there in the communities in terms of whether their children are getting the appropriate education that they need.

So the challenge, Madam Chair, for us as citizens of the Commonwealth and as residents of the Commonwealth and you, delegates, that have kids or grandkids, I mean it is incumbent on your part to ensure that education is properly funded by the legislature.

The mechanism that is already in our statute is there in terms of the power and the authority given to the public school system. I know for a fact that higher education is good and perhaps we have given them more power than even the Constitution has given them. It is there in the statute, and I know that because I worked on that enabling legislation during the 8th legislature. And I have given them greater power and I know that they wanted to have greater earmarking, because they don't like to justify the funds to the legislature. But it is incumbent on their part as administrators with expenditure authority on public funds, on the funds that is collected and paid by the taxpayers, it is incumbent that they need to justify

every single penny. It is good practice and even if we die and go up to heaven we have to account for every action we did here on this earth. Even God doesn't give you earmarking. Just because you are a priest or anti-religious you don't get that special privilege. You are all the same in front of God. So it's important that the same thing also be treated here on the earthly plane of our existence.

**CHAIR L. TENORIO:** Any other comments or questions?

Delegate Manglona.

**DELEGATE MANGLONA:** I would like to speak in support of the continuation of the present provision of our Constitution pertaining to higher education.

I would also like to join my colleague from Tinian in supporting the earmarking of funding for the college.

If we look today, we see so many of our young people that are now in the school. Human resources are our most valuable resources in our Commonwealth. It was said that there is so much lip service; that is very true. I for one also perhaps made lip service because I insisted that the education of our children is of utmost importance. I have seen it said that the

legislature is very much concerned about education, but, as I see this incident in the past, I cannot help but remember how hard it was for the president of the college and the administrators of the college over the years to go to the legislature almost every week trying to impress upon them the need for additional funding for the college.

One time Madam Chair, I was visited by the college president and I told the president: You know, I only hope our leaders will believe the way I believe, that our money can best serve our government if we can allocate sufficient funds for the education of our children because not too many of our leaders felt that way, believe me. I was the chairman of the Senate Appropriation Committee for almost 15 years and not too many of our leaders sympathized with the college. The college people were flooding our office but it all went to deaf ears. They never listened to them. So I would like very much and I strongly urge the delegates to please, let's provide whatever percentage of funding will guarantee that the college will always have money for operations and also for deserving scholarship students.

**CHAIR L. TENORIO:** Delegate Aldan, Tom Aldan.

**DELEGATE T. ALDAN:** Thank you, Madam Chair.

A good example of funding that doesn't belong in the Constitution is the provision made in 1985.

We give 1 percent to the college; we give 15 percent to the PSS; it doesn't work.

Now they are asking for 45 percent for PSS and 6 percent for college, and if we add almost 5 percent for the legislature we are going to be fighting for 45 percent of whatever is there.

I think that the budget for CAC is about equal to PSS. So if we have 45 percent for the college; 5 percent for the legislature and 6 percent -- 5 percent for the legislature and 6 percent for the college and put in another 45 percent for CAC, we are going to be fighting for 5 percent, and it doesn't make sense.

The allocation should be made by the governor, the presiding officers of the legislature with regards to their branch and the chief justice with regards to his branch. Each branch of government should come before the legislature and justify.

Again, there is a mechanism. As eloquently stated by the president, if you don't like what the legislature is doing, vote them out. Elect new

officials to represent you in this body. I am quite surprised that the legislature has not been in tune with the system, has not supported the system but, again, maybe they are not convinced enough. To this day, I am not convinced enough to support a constitutional allocation, and may I make a motion, Madam Chair, not to put an allocation in the Constitution for either PSS or the college.

(The motion was seconded).

**CHAIR L. TENORIO:** It has been moved not to provide any earmarking of revenues for PSS or NMC and it has been seconded.

Discussion?

**DELEGATE HOFSCHEIDER:** Clarification, has that been addressed in the Article? It is addressed in the article.

**CHAIR L. TENORIO:** Yes, it is.

**DELEGATE HOFSCHEIDER:** Why are we voting? I know it is in the article. I move to end debate on this thing.

(The motion was seconded).

**CHAIR L. TENORIO:** There is a motion on the floor to end debate and it has been seconded. All those in favor of the motion say "Aye." All opposed say "Nay."



**CHAIR L. TENORIO:** The ayes have it.

Delegate Fleming?

**DELEGATE FLEMING:** Thank you, Madam Chair.

There are three deletions that we made to Article 15 which will now be Article 3, Section 13 and the first that we have deleted would be the earmarked funds which we have just voted on.

**DELEGATE HOFSCHEIDER:** Madam Chair, .

**CHAIR LILLIAN TENORIO:** Yes, Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** Could I have the subcommittee chairperson proceed to the transition.

**CHAIR L. TENORIO:** Yes. Delegate Fleming, please proceed to the transitional matters section.

**DELEGATE FLEMING:** Thank you, Madam Chair.

On the local boards the transition would go this way. The first local boards would be elected in November of 1997, and until, then the Board of Education will continue exactly as it is today. On January 1, 1998 the current Board of Education would go out of existence and the new local boards would come into existence.

The Secretary of Education would be selected by the governor who is elected in November of 1997. That appointment would be made in January of 1998.

Until then the Commissioner of Education appointed by the Board of Education would be in office. On January 1, 1998 the current commissioner would go out of existence and the new Secretary of Education would come into existence.

All existing statutes remain in force and all existing school positions will continue to exist. The planning for the transition to a local school board system will go on for the two years between February 1996 when these amendments would be ratified and January 1998 when the new system would come into effect. The central functions of procurement, personnel and finance within the public school system would remain central functions until the Secretary of Education or the legislature determines that they can be done equally well or better at the local level.

Thank you, Madam Chair.

**CHAIR L. TENORIO:** Mr. President.

**PRESIDENT GUERRERO:** Yes, Madam Chair. I notice that under the schedule of transitional matters we put January 1, 1998. Don't elected officials take office on the second Monday in January, and if that is the case, it should be consistent with that provision of our Constitution, and if I am in order I would like to

move that we change this to the second Monday in January.

**DELEGATE HOFSCHEIDER:** So noted.

**CHAIR L. TENORIO:** There is a motion to amend the provision in the schedule on transitional matters to reflect the inauguration date of other elected officials of the Commonwealth.

**PRESIDENT GUERRERO:** All officials that take office. I apologize.

**CHAIR L. TENORIO:** It has been seconded. Discussion? All those in favor say "Aye." All those opposed say "Nay."

Motion carried.

**DELEGATE HOFSCHEIDER:** Madam Chair, the transition I think should read 1997 not 1977.

**CHAIR L. TENORIO:** That's right.

Floor Leader.

**DELEGATE HOCOG:** Yes, Madam Chair, point of information from the Committee. The elections of the school board will come along on a political general election as well?

**CHAIR L. TENORIO:** No.

**DELEGATE HOFSCHEIDER:** Yes.

**DELEGATE HOCOG:** My question again to the

Committee. The election of the local board comes along together with the general political election?

**DELEGATE FLEMING:** Yes, it does.

**CHAIR L. TENORIO:** Yes.

**DELEGATE HOCOG:** Can I then be given an explanation of how could the local elected board be non-partisan during those years or days of election.

**CHAIR L. TENORIO:** Chairman Hofschneider.

One moment, please, for change of tape.

**CHAIR L. TENORIO:** Chairman Hofschneider or Delegate Fleming.

**DELEGATE HOFSCHEIDER:** So I am trying to get Madam Chair. One of the recommendations is to have the legislature review the system after its supplementation, ten years after its existence. If the non-partisan election is not working in any of the senatorial districts, then the legislature has the flexibility to change the system.

**DELEGATE HOCOG:** Madam Chair, I raised this concern during the Committee meetings. For example, the municipal council is supposed to be non-partisan. Everyone knows today that the municipal council is connected to the political arena. I would like to see an election like the Con-Con delegate election, free

and separate from any political election for public offices.

This way we can rest assured that no political interference will come into play with the Board of Education, and I hate to see, Madam Chair, a good candidate be defeated because of political intervention and I would like to Committee to please seriously look into this.

**CHAIR L. TENORIO:** Chairman Hofschneider.

**DELEGATE HOFSCHEIDER:** We took that into consideration within the Committee, but we also have in our report on page 8: "School board elections would be held as part of the general elections in order to minimize costs; however, school board candidates were not permitted to advertise any party affiliation. One suggestion made at a public hearing held by the Committee was that elections for school board be held in July so that they would be distanced from the partisan activities surrounding the gubernatorial race. The Committee considered whether school board members should be elected at special elections such as the one for the constitutional convention, but decided that the requirement for non-partisan campaigning could be enforced during a general election. Candidates for

school board would not be permitted to engage in any advertising whatsoever that indicated a party affiliation. This would include appearing on party-sponsored billboards, in party-sponsored advertising with other party candidates and party-sponsored political events. Any candidate who engaged in partisan political activities after announcing his or her candidacy would be disqualified from further participation in the election or from holding office." Further definition of the nature of non-partisan elections could be done by the legislature as I stated earlier.

Thank you, Madam Chair.

**CHAIR L. TENORIO:** Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Would you allow me to make a minor amendment now before we go back to plenary session.

**DELEGATE HOCOG:** Yes.

**CHAIR L. TENORIO:** We have one more item on our Committee of the Whole.

**DELEGATE VILLAGOMEZ:** It is very minor.

**CHAIR L. TENORIO:** Before we entertain your motion, can I call on Delegate Maratita.

**DELEGATE MARATITA:** Yes, I think the concern on

non-partisan election, as I mentioned during the Committee meeting of the respective Committee, was that under the Board of Election provision on non-partisan election, an example was the Constitutional Convention election of delegates, there was a provision in there that stipulates that partisan activities would not be allowed. I wonder if the standardized requirement on non-partisan election should be included. Regarding the non-partisan election of municipal council, under local government, it should be required that it would be a partisan election instead of non-partisan so it would be consistent with the mayor's election. I made a motion that if the council would be elected on a non-partisan basis, I hope that the mayor would be elected on a non-partisan basis. I think the idea here is to separate what is partisan and non-partisan considerations. I support when we come to local government that election of municipal council should be on a partisan basis.

Thank you.

Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Thank you, Madam Chair. If I can direct the delegates to 13 (c), my amendment. I move that the five members be three members from each

municipality, three from Saipan, three from Tinian and three from Rota.

Anybody like to second that?

(The motion was seconded).

**DELEGATE VILLAGOMEZ:** It has been seconded by Ben Aldan.

**CHAIR L. TENORIO:** Can you state your motion again, please.

**DELEGATE VILLAGOMEZ:** My motion is, instead of five elected board members from each senatorial district, it will be three from each of the senatorial districts and it was seconded by Delegate Ben Aldan.

**DELEGATE HOFSCHEIDER:** Madam Chair, if it is allowable.

**CHAIR L. TENORIO:** There is a motion on the floor and it has been seconded.

Discussion? Chair Hofschneider.

**DELEGATE HOFSCHEIDER:** May I recommend we vote on this?

**CHAIR L. TENORIO:** Yes.

Ready? All those in favor say "Aye." All those opposed say "Nay." The nays have it.

Motion defeated.

**CHAIR L. TENORIO:** Delegate Aldan, Tom Aldan.



**DELEGATE T. ALDAN:** I would like to say a couple of words on non-partisan. We all have laws, Constitutions, dictates, non-partisan issues on how to run under non-partisan politics. I think this rests with individual compliance and I suggest that the Committee doesn't look at it any further, because if the individual running is too political, I think it would be evident enough that other board members would challenge that board, just like in any law, compliance by the individual should be held to the highest standard and if he does not he doesn't belong on boards anyway. That is my suggestion. The Committee should not consider that.

**CHAIR L. TENORIO:** Can I hear a motion for the previous question to adopt the Committee report as amended.

(The motion was seconded).

**CHAIR L. TENORIO:** All those in favor say "Aye."  
Those opposed say "Nay."

The ayes have it. Motion carried.

We move on to Article 19, Code of Ethics. I call on chair Felix Nogis to present the Committee report.

**DELEGATE NOGIS:** Thank you, Madam Chair.

With regard to Code of Ethics although the counsel made a recommendation that the article be deleted in its entirety the Committee recommends that it be maintained; however, the language should be in general terms instead of specific. If I may continue, Madam Chair, I will just read the language as it is now supported by the Committee.

**CHAIR L. TENORIO:** You may continue.

**DELEGATE NOGIS:** Section 1. "A public office is a public trust. The people of the Commonwealth expect that public officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, avoid the appearance of impropriety and not use their position for private gain or advantage. Each branch of government shall ensure that the appropriate and enforceable laws and regulations are enacted to enforce these standards."

That is a short statement with the deletion of the last sentence if I am not mistaken.

**CHAIR L. TENORIO:** Chairman Nogis are you reading the current provision or the revised version?

**DELEGATE NOGIS:** I am reading what was discussed in the Committee. Do you have another version of

that?

**CHAIR L. TENORIO:** I believe counsel does. It is dated July 18, 1995.

**DELEGATE HOCOG:** Mine is dated July 17. I apologize Madam Chair.

**CONVENTION CLERK:** Refer to the page number. That will be easier.

**DELEGATE HOCOG:** What I have on is the July 18, 1995 distribution.

**DELEGATE NOGIS:** Except we deleted the last sentence. The content itself is the same if I am not mistaken.

**DELEGATE HOCOG:** No, Mr. Chair you exactly read what was written.

**CHAIR L. TENORIO:** Delegate Gonzales.

**DELEGATE GONZALES:** I just have two points, the first of which is on the copy I have, it contains the last sentence.

Mr. Chairman Nogis?

**PRESIDENT GUERRERO:** Point of order.

**CHAIR L. TENORIO:** Mr. President, state your point.

**PRESIDENT GUERRERO:** Madam Chair, during the plenary session which I asked that they look at their

copies, it is included in the journal of July 18. So that is the appropriate copy that we should be entertaining. It is page 2174 and if they don't have it, then take it out, please.

**DELEGATE HOCOG:** That is what I have.

**CHAIR L. TENORIO:** May I ask the delegates to get your copies out, please, and make sure that it is page 2174. Discussion? Delegate Gonzales.

**DELEGATE GONZALES:** Chairman Nogis, what is the brief statement or repeat it. I wasn't in the Committee.

**DELEGATE NOGIS:** Madam Chair, I would like to refer that question to legal counsel.

**MR. WILLENS:** The question goes to deletion of the last sentence: "The Committee decided that the vesting of retirement benefits" and so forth was a matter of obligation to the individual concerned, and that it presented too drastic and unreasonable a sanction for those persons even under circumstances set forth in the sentence. There was also a legal question raised with respect to it and the majority of the Committee felt that it was enough to state affirmatively the ethical standards that should be complied here and leave to it the individual branches of government to decide how

best to enforce those standards.

**DELEGATE GONZALES:** If I may continue, Madam Chair.

**CHAIR L. TENORIO:** Continue Delegate Gonzales.

**DELEGATE GONZALES:** These are nicely worded sentences. I know people mentioned that there is a present statute for enforcement. Is that the reason why we did not put a general sentence for enforcement.

**CHAIR L. TENORIO:** Chairman Nogis.

**DELEGATE NOGIS:** That is why it is a general statement now because I believe there is a statute through the legislature that is being considered, yes.

**CHAIR L. TENORIO:** Delegate Camacho.

**DELEGATE CAMACHO:** Madam Chair, I applaud the chairman and the outcome of the Committee on ethical standards. My problem is not necessarily with these words, a bunch of words that we used, but from experience we have noticed that the legislature seems to swing back and forth with ethical standards. They pass one and then they refute it. I don't see anything here really that indicates until the next Constitutional Convention that if they do not come up with ethical standards that are acceptable, somebody should do it. I just want to find out from the legal

counsel -- is there anything in the legislative history that will indicate that such a thing as an ethical standard is urgently needed to ensure that public officials conform to all these nice words, a public office is public trust and so on.

**CHAIR L. TENORIO:** Counsel Willens.

**MR. WILLENS:** Yes, Delegate Camacho. The 1985 Convention did direct that there be a Code of Ethics adopted by the legislature and that was in fact done. And there is a fairly detailed statute now in place with respect to such matters as conflicts and financial disclosure and so forth. The Constitution also provides in the Judicial Branch article that the court has a responsibility with respect to the ethical standards of the members of the Judiciary. And the Executive Branch has some provisions as well. It is a good question in the sense that we don't know that that the law will be sufficient, but it was generally concluded by the Committee that you could not produce a detailed code of conduct in a constitutional provision. Some states have tried to do that and have established an enforcement commission and detailed financial disclosure requirements in the Constitution. Most, however, have settled for a general declaration

of the kind that you have before you.

**DELEGATE CAMACHO:** There is then a statute in existence right now?

**MR. WILLENS:** Yes, there is.

**DELEGATE CAMACHO:** Thank you.

**DELEGATE ALDAN-PIERCE:** Any further questions or comments?

Floor leader.

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

**CHAIR L. TENORIO:** All those in favor of adopting the executive Committee report No. 3 on ethical standards say "Aye." All those opposed say "Nay."

Motion carried.

**DELEGATE NOGIS:** May we include that for the plenary session.

**CHAIR L. TENORIO:** It is included.

**PRESIDENT GUERRERO:** Madam Chair, privilege.

**CHAIR L. TENORIO:** State your privilege.

**PRESIDENT GUERRERO:** With regards to No. 2. I wonder if the Committee could entertain report No. 7 and adopt it -- it is on page 2263 -- and formally adopt that report since it is already reported out. This is on new and other matters. Since it doesn't make any reference, I just want the Committee of the

Whole to adopt it Report No. 7 the Committee on Judiciary and Other Elected Offices, New and Other Matters it reported out certain things that were assigned to them.

Can we officially adopt that? I so move,  
Madam Chair,

(The motion was seconded).

**PRESIDENT GUERRERO:** I move to the previous question.

**CHAIR L. TENORIO:** All those in favor of adopting report No. 7 on the report of Judiciary and Other Elected Offices say "Aye." All opposed say "Nay."

The ayes have it. Report adopted.

**DELEGATE HOCOG:** I would like to rise back now to our plenary session

(The motion was seconded).

**CHAIR L. TENORIO:** There is a motion to rise back to our plenary session. All those in favor say "Aye." All opposed say "Nay."

(Motion carried).

**DELEGATE HOCOG:** Five minutes break.

**CHAIR L. TENORIO:** Break.

(Recess taken from 11:45 a.m. to 12:08 p.m.)



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

I call on the Chair of the Committee of the Whole, Delegate Lillian Tenorio, to report on the deliberation of the Committee.

**DELEGATE TENORIO:** Mr. President, I'm pleased to report that the Committee of the Whole voted affirmatively as follows:

Legislative Branch and Public Finance Committee, Report No. 6, Article 10, was adopted as amended with minor amendments.

Judiciary and Other Elected Offices Committee, Report No. 5, dated July 18, Article 15, was adopted as amended. The amendment was essentially the insertion of a mechanism addressing three or more vacancies on the Board of Education.

Executive Branch and Local Government, Report No. 3, dated July 18, Article 19, was approved as is.

Judiciary and Other Elected Offices, Report No. 7, New and Other Matters, adopted as is.

**PRESIDENT GUERRERO:** Thank you, Madam Chair.

Mr. Floor Leader.

**DELEGATE HOCOG:** Yes, Mr. President.

Mr. President, I would like to move to pass Article 3 on the Executive Branch on its first reading.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to

pass Article 3 on first reading.

Discussion?

Yes, Delegate Vicente Aldan.

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

I would like to take the Delegates' time before the passage of Article 3 to look into sections 18 and 20.

Section 20 was created with the intent that we would unify all indigenous people and promote the Carolinian and Chamorro cultures, traditions, and languages; and, at the same time, tapping into the MPLT for funds.

I would like to urge the executive of the Office of Carolinian Affairs and the Carolinian community, that it would be most to their benefit if we would consolidate the Office of Carolinian Affairs, section 18, with the entity provided under section 20.

At the present, if section 20 passes, then there are five council members, and four of those members are Chamorros. What is the guarantee that the Carolinian community will not be short changed from funds of the MPLT if they have a separate office?

Two, by consolidating with section 20, we will provide a stronger force and stronger vote from this council in the future and even now to put down ideas that are beneficial to both communities.

In the past, the Chair of the Executive Branch has

said that most Carolinians now speak Chamorro and Carolinian. Also, we all know that a lot of Chamorros have married Carolinians and vice versa. By consolidating this office, we will be unifying our community.

I am not here to delete the Office of Carolinian Affairs. But I'm here to support and give them an opportunity to increase their funding.

At present, the Office of Carolinian Affairs -- we can say that it is the size of the living room of a house. If we move it from section 18 to section 20, the Office of Carolinian Affairs will have one half of the house, and, hopefully, in the other half, we can establish an Office of Chamorro Affairs, and together, they will work for the betterment of both Carolinian and Chamorro and the betterment of our Commonwealth.

I urge that the Committee to search for those people that came to the public hearings and discuss what I propose.

If by Saturday, or by the time of the second reading, they have not responded, and they still want to continue under section 18, then let it be.

But I urge that we should form an Office of Chamorro Affairs under the council so that we can continue to present a picture to our kids that as Chamorros we're out there to unify our community. We'll be glad to rehabilitate and

promote the cultures of our islands.

Thank you.

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

Before I recognize anybody else, I would like to call on the chair so he can inform the Convention what the Committee has done since the deliberation of Article 3 during the Committee of the Whole last Saturday. It's in the best interest of the Convention to facilitate its work if we go section by section.

I will call now on the Chair of the Committee, Delegate Nogis.

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

First of all, Mr. President, if you allow me, I would like to respond to Delegate Aldan's remark, if I may.

**PRESIDENT GUERRERO:** Mr. Chairman, I suggest that we first go down, and when we get to that provision or that section within the article, then it would be more appropriate if you discuss it at that point in time.

So in the best interest of the Convention, I request that you don't go rebutting anyone, but assist the Convention in moving forward with Article 3 section by section.

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

As a result of Article 3, which was scheduled last Saturday and all the input that was recommended by the floor, I'll go ahead and read section by section and open it for

comment.

**PRESIDENT GUERRERO:** Please proceed.

**DELEGATE NOGIS:** Section 1:

"Executive Power:

"The Executive Power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the law."

This was also deferred, just for the Delegates' information, Mr. President, this was deferred pending to the discussion with regard to local government.

If I may continue on section 2.

**PRESIDENT GUERRERO:** Please proceed.

Yes, Delegate Camacho.

**DELEGATE CAMACHO:** Are we going to have an opportunity to discuss the sections section by section?

**PRESIDENT GUERRERO:** Do you have a question on section 1?

**DELEGATE CAMACHO:** I have a comment on section 1.

**PRESIDENT GUERRERO:** Proceed with your comment.

**DELEGATE CAMACHO:** Basically, the residency requirement for candidacy for Governor.

**PRESIDENT GUERRERO:** That is section 2, Delegate Camacho. Section 1 is the executive power.

**DELEGATE CAMACHO:** I'll wait until that section comes up.

**DELEGATE NOGIS:** Section 2:

"Qualification of the Governor:

"The Governor shall be a U.S. citizen qualified to vote in the Commonwealth and at least 35 years of age and a resident and domiciliary of the Commonwealth for at least seven years immediately preceding the date the Governor takes office.

**DELEGATE CAMACHO:** Mr. President.

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

**DELEGATE CAMACHO:** Mr. President, I made known my view on this reduction from the 10 years to seven years.

The explanation that was given at the time was that it would open the CNMI to legal suit because of the fact that other states in the union have attempted to make it 10 years and they were shot down, you might say; and, therefore, the seven years is more practical and more legally sound.

One of the reasons that was given was that we are American citizens; that we want to be Americans; that we're proud of being Americans; and, we that should treat everybody that comes to the CNMI, irrespective of their complexion or their ethnic background, so long as they are American, they could run after residing here in the CNMI for seven years. All of those are accurate. I don't question those.

What I question is basically the question of equality. For example, the United States government does not

allow us to vote for the President of the United States. We are American; yet, they do not allow us.

Secondly, we're not a member of the House of Representatives or the Senate of the United States. Are those two talking about equality in this regard? No.

The other matter that I would like to mention, basically, is that there are instances or situations in the United States itself whereby a government within a government, you might say, is in existence. There are residents, other U.S. citizens, that are residing within that area; and, yet, they are not allowed to participate in their government.

This, for example, is the political situation between the Navajo Indians and the United States government, which was negotiated, or was implemented as a result of some treaty which was made. They are a self-governing entity within the United States.

Therefore, I can't see the rationale that we should open up the door for outsiders, you might say, even though they are a U.S. citizens to come and run after residing in the CNMI for seven years.

These questions of equality are just not the right explanation for this. I don't think that we should be the one to show the United States that we are setting a good example of equality when, if you are the head of the household, you should set a good example for your children and not let the children

set the example for the father and mother of the house.

Therefore, I urge the Delegates to restore this 10 years back to its original. I think that we should stand firm, not necessarily to make it impossible for them to run eventually, but at least for now, I think that 10 years should be more in tune with what the political development of the CNMI is undergoing right now.

Therefore, I ask the Delegates to please reconsider. It's not a matter of life and death, I realize. You are only talking about three years difference.

Still, it is an issue of great importance for our people if we are to retain control of our own islands and maintain whatever little we have in terms of our culture and control of these islands.

Thank you, Mr. President.

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

Before I recognize Delegate Villagomez, I wanted to set the record straight that it is not the U.S. Government that does not allow NMI citizens to vote for the U.S. President. It is the U.S. Constitution, and we agreed to that in the Covenant.

Delegate Villagomez.

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

I move we adopt section 2 as is.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to



adopt the section as is.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

Mr. Chairman.

**DELEGATE NOGIS:** Under section 3, the Lieutenant Governor, the Committee recommends an amendment to section 3 to reflect new duties to be given to the Lieutenant Governor under proposed amendment to Article 2, which is presently under consideration in the Legislative Branch and Public Finance Committee.

The Committee believes this can be accomplished by substituting the word "Constitution" for the word "Article" in the first sentence of this section.

Discussion?

**PRESIDENT GUERRERO:** Yes, Delegate Tomas Aldan.

**DELEGATE TOMAS B. ALDAN:** I may be wrong, but I would like to call this concern to the attention of the Chairman, Mr. President.

Are we going to discuss section by section and vote on each section by each section?

**PRESIDENT GUERRERO:** Not necessarily. We're trying to get a reading.

**DELEGATE TOMAS B. ALDAN:** What are we doing?

**DELEGATE NOGIS:** Short recess.

**PRESIDENT GUERRERO:** The best approach is that since last Saturday, there are some minor changes. I would call on the Chair to address the changes and those are the only ones we need to vote on. The Committee of the Whole actually voted on the remainder.

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

I had that in mind earlier; however, I was following your instructions.

**PRESIDENT GUERRERO:** I apologize.

**DELEGATE NOGIS:** I'll just do a summary on the changes of as a result of the Saturday meeting, if I may.

**PRESIDENT GUERRERO:** Please proceed.

**DELEGATE NOGIS:** Under section 2, we maintain the seven years to be in line with the concerns that were brought up.

Under section 9(a), the Committee strongly affirmed their support in deleting any time limit with regard to the Legislature. They seem to think that the continuing resolution concept works and should be maintained.

Section 11, regarding the Attorney General, the concern was brought up that he would have to be a member of the CNMI Bar, and that is included under section 11.

Section 14 would add, "Providing that the director of finance can be removed for cause." Pardon me. That provision is in Article 10.

Section 19, regarding the retirement system, the committee strongly supports the proposals submitted by distinguished Delegate Aldan in regard to retirement.

Those are all the concerns that were brought up, Mr. President.

**PRESIDENT GUERRERO:** The Chair recognizes Delegate Aldan.

**DELEGATE TOMAS B. ALDAN:** I move for adoption.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to adopt the recommendations by the Committee on those additional changes.

Discussion?

Let me recognize Delegate Gonzales.

**DELEGATE GONZALES:** Mr. President, if I may ask Chairman Nogis regarding the Attorney General being a member of the CNMI Bar.

Does he have to take the CNMI Bar exam to be a member of the Bar?

**DELEGATE NOGIS:** He would have to pass the CNMI Bar or equivalent.

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

**PRESIDENT GUERRERO:** Delegate Vicente Aldan.

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

Section 19(e), I think I mentioned during the Committee of the Whole, involving the special annuity for the

Governor, if that could be given only if the deficit is retired.

As parents, when our kids go to school and they bring home a report card that is very bad, we don't give them candy. We spank them. This is --

**PRESIDENT GUERRERO:** Delegate Aldan.

**DELEGATE VICENTE ALDAN:** I'm using the same principle.

**PRESIDENT GUERRERO:** Delegate Aldan, may I interject, please?

If you want to remove it, would you like to effectuate the motion, please?

**DELEGATE VICENTE ALDAN:** I would like to make a motion to put that in there.

**PRESIDENT GUERRERO:** What was your motion? Can you state it? Do you want to leave it in? Delete it? What?

**DELEGATE VICENTE ALDAN:** I would like to make a motion that at the end of the word "receive," add "entitled to receive this special annuity when the deficit is retired."

**PRESIDENT GUERRERO:** Which section?

**DELEGATE VICENTE ALDAN:** 19(e).

**PRESIDENT GUERRERO:** Restate your motion, please.

**DELEGATE VICENTE ALDAN:** My motion is to put in additional wording that the special annuity of the Governor, that the former Governors will receive it, or Lieutenant Governor, will receive it when the deficit is retired.

**PRESIDENT GUERRERO:** Any second to the motion?

**DELEGATE NOGIS:** There is none, Mr. President.

**PRESIDENT GUERRERO:** Then your motion dies.

Any other comments?

There is a motion on the floor to adopt the changes  
by the Committee.

**DELEGATE NOGIS:** So moved.

**PRESIDENT GUERRERO:** Any further discussions?

**DELEGATE NOGIS:** Ready.

**PRESIDENT GUERRERO:** Ready for question.

Those in favor of the motion say "Aye."

Those opposed, say "Nay."

Motion carried.

We're back to the main motion as amended.

Any further discussions?

Con-Con clerk, roll call, please.

(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, Victor B. Hocog,  
Henry U. Hofschneider, David L. Igitol, Jose  
Lifoifoi, David Q. Maratita, Donald B.  
Mendiola, Felix R. Nogis, Justo S. Quitugua,  
Joey P. San Nicolas, Bernadita T. Seman,  
Marylou Ada Sirok, Helen Taro-Atalig, Juan S.  
Tenorio, Lillian A. Tenorio, Joaquin P.

Villagomez. (20 votes)

NO: Delegates John O. DLR. Gonzales.  
(1 vote)

ABSTAIN: Delegates Vicente S. Aldan,  
Benjamin T. Manglona, Teresita A. Santos,  
Mariano Taitano. (4 votes)

**CONVENTION CLERK:** Mr. President, I was conferring with counsel with regard to Delegate Aldan not responding to the roll call twice.

Mr. President, we have 20 members voting yes, one member voting no, four members abstaining, two members absent.

**PRESIDENT GUERRERO:** Article 3 passes on the first reading by 24 votes.

Mr. Floor Leader.

**DELEGATE HOCOG:** Mr. President, I move to pass on first reading Article 10, Taxation and Public Finance.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to pass Article 10 on first reading.

Discussion?

Chairman Aldan.

**DELEGATE TOMAS B. ALDAN:** Can I ask the Floor Leader to include Article 2, section 5?

**DELEGATE HOCOG:** I think we have discussed that, too, Mr. President, during the Committee of the Whole, so I would

like to amend my motion to include Article 2, section 5.

Thank you.

**PRESIDENT GUERRERO:** All right. The motion has been amended to include Article 10 and Article 2, section 5.

Discussion?

Hold on a minute. We need to change the tape.

(Tape change.)

**PRESIDENT GUERRERO:** Con-Con clerk, roll call please.  
(The roll was called and the Delegates voted as follows:)

YES: Delegates Tomas B. Aldan,  
Vicente S. Aldan, Marian Aldan-Pierce,  
Frances LG Borja, Esther S. Fleming,  
John O. DLR Gonzales, Herman T. Guerrero,  
Victor B. Hocog, Henry U. Hofschneider,  
David L. Igitol, Jose Lifoifoi, Benjamin T.  
Manglona, David Q. Maratita, Donald B.  
Mendiola, Felix R. Nogis, Justo S. Quitugua,  
Joey P. San Nicolas, Teresita A. Santos,  
Bernadita T. Seman, Marylou Ada Sirok, Mariano  
Taitano, Helen Taro-Atalig, Juan S. Tenorio,  
Lillian A. Tenorio, Joaquin P. Villagomez.  
(25 votes)

**CONVENTION CLERK:** Mr. President, we have 25 members voting yes and two absent.

**PRESIDENT GUERRERO:** Article 10 passes first reading with

25 affirmative.

Before I call on the -- excuse me.

**DELEGATE VICENTE ALDAN:** And Article 2.

**PRESIDENT GUERRERO:** And Article 2, section 5.

Before we proceed, I want the record to reflect that Delegate James Mendiola has asked to be excused. His wife is in the hospital, so he has to go back to Tinian.

Mr. Floor Leader.

**DELEGATE HOCOG:** Yes, Mr. President.

I would like to move for passage of Article 15 as amended in the Committee of the Whole for first reading.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to pass Article 15 as amended by the Committee of the Whole.

Discussion?

If not, Con-Con clerk, 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, Victor B. Hocog, Henry U. Hofschneider, David L. Igitol, Jose Lifoifoi, Donald B. Mendiola, Felix R. Nogis, Justo S. Quitugua, Teresita A. Santos, Bernadita T. Seman, Marylou Ada Sirok, Mariano Taitano, Helen Taro-Atalig, Juan S. Tenorio,



Lillian A. Tenorio. (19 votes)

NO: Delegates John O. DLR Gonzales,  
Joey P. San Nicolas, Joaquin P. Villagomez.  
(3 votes)

ABSTAIN: Delegates Vicente S. Aldan,  
Carlos Camacho, Benjamin T. Manglona, David Q.  
Maratita. (4 votes)

**CONVENTION CLERK:** Mr. President, we have 19 members  
voting yes, three members voting no, one member absent, and four  
members abstaining.

**PRESIDENT GUERRERO:** Article 15 passes first reading by  
23 votes.

**DELEGATE HOCOG:** Mr. President.

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

**DELEGATE HOCOG:** I would like to move for passage of  
Article 19 on first reading.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to  
pass Article 19.

Discussion?

If not, roll call, Con-Con clerk.

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

YES: Delegates Tomas B. Aldan,  
Vicente S. Aldan, Marian Aldan-Pierce,  
Frances LG Borja, Carlos Camacho, Esther S.

Fleming, Herman T. Guerrero, John O. DLR  
 Gonzales, Victor B. Hocog, Henry U.  
 Hofschneider, David L. Igitol, Jose Lifoifoi,  
 Benjamin T. Manglona, David Q. Maratita,  
 Donald B. Mendiola, Felix R. Nogis, Justo S.  
 Quitugua, Joey P. San Nicolas, Teresita A.  
 Santos, Bernadita T. Seman, Marylou Ada Sirok,  
 Mariano Taitano, Helen Taro Atalig, Juan S.  
 Tenorio, Lillian A. Tenorio, Joaquin P.  
 Villagomez. (26 votes)

NO: (None.)

**CONVENTION CLERK:** Mr. President, we have 26 members voting yes, one member absent.

**PRESIDENT GUERRERO:** Article 19 passes on the first reading by 26 votes.

**DELEGATE HOCOG:** Mr. President, I would like to move to pass first reading of Article 18 which is constitutional amendment and mutual consent.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to pass Article 18 on first reading.

Discussion?

Delegate Tomas Aldan.

**DELEGATE TOMAS B. ALDAN:** Mr. President, I move to amend the ratification requirement to just a simple majority of the

votes cast and delete "and at least a majority of the votes cast in each of two of the senatorial districts."

(The motion was seconded.)

**DELEGATE SAN NICOLAS:** Restate that, sir.

**PRESIDENT GUERRERO:** It has been moved and seconded to delete the two-thirds requirement --

**DELEGATE TOMAS B. ALDAN:** To a simple majority of the votes cast.

**PRESIDENT GUERRERO:** -- to a simple majority of the votes cast.

**DELEGATE HOCOG:** Mr. President.

**PRESIDENT GUERRERO:** Yes.

**DELEGATE HOCOG:** I would like Delegate Aldan to refer to the section and line he's referring to.

**DELEGATE TOMAS B. ALDAN:** Section 4, ratification.

**PRESIDENT GUERRERO:** Let me ask the mover: Are you making reference to section 4 in the actual proposed amendment language?

**DELEGATE TOMAS B. ALDAN:** Yes.

**PRESIDENT GUERRERO:** Does everybody have their copy in front of them?

You want to delete two-thirds of the vote cast and at least a majority of the votes cast in each of the two senatorial districts?

**DELEGATE TOMAS B. ALDAN:** No. It would read, "shall

become effective if approved by at least a majority of the votes cast." and delete the last part of those sentences.

**PRESIDENT GUERRERO:** It has been moved and seconded, that provision.

Let me recognize first Delegate Joaquin P. Villagomez.

**DELEGATE VILLAGOMEZ:** Mr. President, I move to end debate.

**DELEGATE MANGLONA:** Mr. Chairman, please. I raised my hand before that motion. I want to speak on the issue.

**PRESIDENT GUERRERO:** There were several hands up when that came in.

Let me recognize Delegate Manglona first.

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

I would like to ask the mover to please try to reconsider his motion.

If we allowed this to happen, what it means is that we can ratify a constitutional amendment by the voters of Saipan itself, because all we need is 51 percent.

Let me give you an example. Let's say Saipan has 10,000 qualified voters. All we need is a little over 5,000 to get a majority on Saipan. And even if nobody voted on Rota, even if nobody voted on Tinian, I think the vote from Saipan itself would prevail.

Is this the right thing to do? I believe it is not

right. I believe let's exercise the democratic system where all of our people in all of our islands shall participate in the process.

Let's take the rules of our Convention. As we began to formulate our rules in this Convention, there was a lot of concern that there would be no Committee meeting if one senatorial delegation is not there. That is also true in our convention rules, that if one senatorial delegation is not present, we have to make sure that they are present in order to establish a quorum.

What are we trying to do here? Are we trying to divide our islands? Are we trying to create disunity between the islands?

All along, since the beginning of this convention, I appeal for unity. I continue to appeal for unity almost every day. What is the thing that really hurts our Delegates about the island of Tinian and about the island of Rota?

I told you already about our history. What makes our Commonwealth today is the willingness of our people to unite and work together, especially as we look to the situation of Tinian. Two-thirds of Tinian were taken for our national defense. The people of Tinian sacrificed that in the interest of having a Commonwealth.

Please, I ask once again, and even if I have to beg, I will beg on behalf of my people. Please, this is not the

right thing to do. I would like the fellow Delegates to please turn that motion down. It would not unite us if we get that provision.

Thank you, Mr. President.

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

Let me, before I recognize Delegate Hocog, let me recognize the mover of the motion.

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

To require that the two senatorial districts approve after a majority of the votes cast, to me, may be illegal if not unconstitutional.

Based on legal opinion, this provision may not withstand court scrutiny. There were various issues which made it quite clear that the one man, one vote principle must be applied, especially if there are amendments to the Constitution or representation by population.

Unity, as I am hearing from our good neighbors, means what is good for Rota or Tinian is unity. What is good for the Commonwealth is unity so long as we recognize Tinian and Rota or that we don't take anything away from Tinian and Rota.

I ask my good neighbors from Tinian and Rota to listen to themselves when they talk about unity or about eliminating the requirement that two senatorial districts must pass an amendment.

You get irritated. You get angry. You stop

listening and center all of your concern about what is in it for Tinian or what is in it for Rota. You don't want to lose your strength or bargaining power irrespective of the wishes of the majority.

Please listen to yourself. You will hear it loud and clear. Please tell me that I am wrong by accepting the wishes of the majority in amending the Constitution or ratifying an initiative in a referendum.

The message is protectionism. To continue to control the wishes of the majority, to continue to have the residents of Saipan beg for your support because of the veto power Tinian and Rota now enjoys.

Please tell me that this is the democratic principle of government where the majority rules. Please tell me that what we have is government of the people, for the people, and by the people.

Please explain to me what this famous quotation means as it applies to the democratic system of government, because what I am seeing and experiencing, is the rule of Tinian and Rota. Forget what the majority desire or wish.

Please explain to me in plain English that what I am hearing and seeing is wrong. It's a simple scenario. If 75 percent of the votes cast want to amend the Constitution or pass an initiative, and the voters in Tinian and Rota did not support the proposed amendment by a simple majority, it dies.

Is this what we call the rule of the majority? Let's stop harboring the ideals of what is in it for me. Let's begin to practice oneness by recognizing the system we live and sleep with, the democratic system of government. Let us begin to adopt the principle of one man, one vote.

This will certainly promote unity. Let us start thinking of what is good for the Commonwealth, not what is good for Saipan, not what is good to Tinian, and, certainly, not what is good for Rota. But what is good for everyone as a unit. Only then we can achieve unity.

I love Tinian. I love Rota. I love the people that stay in those islands. I wish that we would stop practicing this what is in it for me and speak of what is good for the Commonwealth.

Thank you.

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

I'll call on Delegate Hocog. He had his hand up earlier.

**DELEGATE HOCOG:** Yes, Mr. President.

I understand the sentiment of the Saipan Delegates. I believe we have eliminated the proposed amendments on the floor in the Committee. I find it irritating to hear again that we are revisiting their reintroduction of such.

I understand the sentiment of my good Delegate Aldan. It's very well said. But, Mr. President, in



the making of the Commonwealth, Rota and Tinian also took part so to speak. I don't know if I can use the word "partake."

I feel that in the past, Mr. President, we have been ratifying constitutional amendments from 1975, '76, 1985, and now, we're working on a document that will be adopted, perhaps, in 1996.

There has not been a time that we did not ratify constitutional amendments in the past. If there is such, then I believe that Saipan, Rota, and Tinian, as well, participated in the nonratification of those amendments.

Everybody is satisfied with the present process of making such amendments and the ratification process to the Constitution.

Unless otherwise, there is not one that was not ratified as a result of the participation of Rota or Tinian. I guess we have jointly put our minds together in ratifying amendments that are being encouraged by the Delegates that make those amendments. If there will be questions in terms of the ratification, I believe the Court can make that decision.

I would like, Mr. President, to gamble on the merit of the challenge to how we ratify our Constitution of the Northern Mariana Islands.

Thank you.

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

Delegate Tenorio, did you raise your hand or was it

Delegate Maratita?

**DELEGATE TENORIO:** No.

**PRESIDENT GUERRERO:** I'm sorry.

I recognize you, Delegate Camacho, but there were hands raised over here earlier.

Let me recognize Delegate Maratita.

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

I think the motion to change the ratification for a constitutional amendment by initiative petition requiring two-thirds of the votes cast in at least two senatorial districts and at least a majority of the votes cast, to be changed by the motion as proposed by Delegate Aldan would, in itself, to my thinking on this proposed motion, or the motion, would be best served if the Delegates do not agree to the proposed motion.

I think the present language, as presented for first reading requiring constitutional amendment by initiative petition, two-thirds of the votes cast in the Commonwealth and a majority of the votes cast in each of the two senatorial districts, is what I am urging be approved.

Let's say the scenario that the majority of the votes in each of two senatorial districts, that constitutes an affirmation that two of the three senatorial districts agree to the proposed constitutional amendment, as well as two-thirds of the votes in the Commonwealth.

That further strengthens the requirement for approval showing that you have two-thirds of the Commonwealth votes as well as a majority in each of the two senatorial districts.

I urge my fellow Delegates to please let's leave this provision that we are adopting for first reading. I don't think there is a danger to having a requirement for an amendment to the Constitution by initiative. Two-thirds, that is an indication that the people wanted some change. Two-thirds of the Commonwealth vote, and 51 percent, or a majority of the votes in each of two senatorial districts want to see this change.

My fellow Delegates, I think if you agree with us, both in each senatorial district, then I urge all of you to please let's stay as is.

Thank you.

**PRESIDENT GUERRERO:** I'll call on Delegate Villagomez.

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

I want to make it understood, I love Tinian. I love Rota. I love the Commonwealth. I'm an American, and I proud to be.

The intent of the proposal is to insure that the product of the future conventions is not challenged. What is if the future convention approved the second language and someone challenged it? Everything that is there now that would be

proposed would be thrown away.

I hear disunity. I hear unity. I have spoken that I'm for unity. I love the people of Tinian. I lived there. I love the people of Rota. My wife is a Taimanao. I'm not prejudiced. I want Commonwealth-wide. I want us together.

Mr. President and fellow Delegates: If it's really the wish of the people of Rota to disunite, we should not stop them. This is a democracy. We should help them find a relationship that they really want. But first, let us place that issue to the people.

I hear of secession to unite with Guam, FSM, and Russia. If that is really the intent, then let us ask the Governor and Legislature to place it on the 902 and on the Covenant negotiations. There is nothing that would stop it. I want Commonwealth-wide, but I don't want a lawsuit.

Mr. President, the bicameral system of government is a spoiled system. There is misallocation of finite or limited CNMI resources. Perhaps, we should even change that to insure political control.

When I mention unicameral, it's not with prejudice. It's for political control. The reality is that Tinian, with their voting population now, with the casino coming in, would be wiped out.

But it is good to have new blood. If we really want political control, let's take a serious look at a

unicameral legislature and insure whatever the Tinian and Rota Delegates want.

So let us not fear disunity, but I beg for unity.

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

I call on Delegate Camacho.

**DELEGATE CAMACHO:** Mr. President, first of all, I would like to ask a question of our legal counsel.

The question of the legality and also the question of people challenging on that issue.

May we hear that first before I continue, Mr. President?

**PRESIDENT GUERRERO:** Mr. Willens, can you respond to the question phrased by Delegate Camacho?

**MR. WILLENS:** As I understand the question, you would like to me to address the legal issue with respect to the constitutionality of the provision as it now stands?

**DELEGATE CAMACHO:** Yes, sir.

**MR. WILLENS:** We have looked at this matter. We're continuing to look at it because of its importance to the Convention.

The Attorney General here in the Commonwealth in response to a letter that the President sent the Attorney General early on in the proceedings did offer his opinion that the present constitutional provision which requires two-thirds vote in each of two senatorial districts, if challenged, would

probably had be held unconstitutional.

We have looked at that matter. There is very limited precedent on that issue. But based on the very few court cases that do pertain and the change in the law since 1976, there could be a risk that if challenged, that provision might be held unconstitutional.

That was one of the reasons why this amendment was discussed in the Committee. The proposed amendment carries some risk, as well, but we think somewhat less risk.

But as the Delegates and we have spoken before, those are lawyer's opinions and it really requires a court to actually adjudicate the issue.

Indeed, a court might consider that it's premature to consider the issue until, in fact, there was an amendment that was put before the voters, received the required majority vote under the present system, but failed to meet the two-thirds requirement in two of the three districts.

In other words, if an amendment actually failed because of that requirement in the two districts, a court then might entertain a lawsuit that would raise the issue as to whether that was constitutional or not.

The thing that is concerning us now and that we're doing further work on is what kind of relief would a court provide under those circumstances, and we will have to consider that further.

**DELEGATE CAMACHO:** Thank you, Mr. Willens.

May I continue, Mr. Chairman?

**PRESIDENT GUERRERO:** Yes.

**DELEGATE CAMACHO:** You know, I was just talking to somebody a few minutes ago before we reconvened about the fact that we are given, or we are mandated to come up with drafting or redrafting our Constitution, which was drafted in 1976, in two months.

I have asked some of the Delegates here about their views on some of the issues. I must admit that two months, for our background, for our experience, for our knowledge of legal matters is far from desirable.

In other words, we just do not have the time nor the expertise to actually advise us individually on the long-term ramifications of what we're doing.

We are talking about risks. Is there anything that we are doing right now that is actually risky? I mean, anything could be challenged. We've been through this thing in 1976. We've been through it in 1985. There has been challenge.

But challenge is good. Why are we beginning to be so timid and so fearful of being challenged? Is it good? Is it for public importance? Is it for personal needs or greed?

Why haven't we stood up on our two feet and say this is what we want and this is what we should have irrespective of the fact that it's going to be challenged?

This is all I ask the Delegates. There is nothing in this world that is guaranteed.

For example, you could be sleeping and then get out of your bed and fall and break your neck. You can't say that tomorrow will be another bright and sunny day because you never know. Unfortunately, the individual that knows is not telling.

Let's try and consider this issue. We're trying to make our people one. There may be selfish interests involved in the issue. But then, there are always selfish interests just like it was mentioned by somebody that whatever you do is politically motivated.

Mr. President, excuse me if I'm going off track, but let me just have time to recollect my mind.

The unity of our people is important. As I mentioned, also, we should find means to accommodate our people Northern Marianas-wide, not just for Saipan.

One of the reasons that the people are heavily concentrated in Saipan is because of our failure as elected of public officials to diversify so that Rota and Tinian can develop to the extent that it will also attract people to Rota and Tinian.

Therefore, even until now, they are underpopulated, and, politically, you might say are not on the same level as Saipan in terms of power.

But the key issue here is we are all CNMI people.



We are all Chamorro and Carolinian. We should work together to find means to work together.

This issue of two-thirds and simple majority has been an issue from the beginning, from the Pre-Con all the way until now. We are still either trying to simplify it to the extent that people will not fully participate, or trying to make it so hard we are shifting from one extreme to the other. I don't know for what reason. We're not consistent. I urge the Delegates to please consider this seriously because it's important.

I don't think the importance here is secession. The importance is that we are one people and our culture dictates that we should work together and help each other.

Thank you, Mr. President.

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

Before I recognize any speaker, I have the following names down in the order I see their hands raised up: Delegates San Nicolas, Santos, Mendiola, J. Tenorio, and then I'll recognize the others, Aldan and Maratita.

In that order, let me recognize Delegate San Nicolas.

**DELEGATE SAN NICOLAS:** Mr. President, you all know where I come from. I come from a little island south of here called Tinian.

I am not a person who likes to hang out any dirty

laundry. I have nothing against anybody because of where they come from or what has happened in the past.

I'm pretty sure that when they created the Covenant, our first Constitution and even our second Constitution, people were mindful of that history. People wanted to allow for the entire Commonwealth. Let's not just look at one certain group, but the entire Commonwealth, the opportunity to participate in the process.

I have nothing against anybody from Saipan, against anybody from Rota, and you will never hear me utter words of secession or of separation. That is not the way I see us going, we should ever go.

But let us be mindful of our history and what has been done so that history does not repeat itself. I am for the status quo. I'm for allowing the smaller islands, if people look at it that way. But I look at it,, I'm for allowing all people, Chamorros, Carolinians, U.S. citizens of our Commonwealth, the ability to participate in the democratic process.

I understand, Delegate Aldan, what you are saying. I know what you are saying. But, please consider what we are saying. Let's see if we can come to an agreement on something. But beyond all of that, recognize that it is for the people, the entire Commonwealth, that we are here together.

Thank you for all your comments. I know that no

one here is going to speak badly about another person personally or professionally. These are all opinions of ourselves.

Beyond everything that we are saying here today, let us consider what we have done and let us consider our future. That's all that the people who voted have asked from us.

Thank you very much.

**PRESIDENT GUERRERO:** Thank you.

Delegate Santos.

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

I may be out of order, Mr. President, but let me begin by quoting a phrase from the Book of Proverbs which says to love thy neighbor as thy self.

With that in mind, Mr. President, and narrow-minded as I am, I will never support any suggestion or plans for the secession of Rota from the Commonwealth, nor will I support any negotiation to establish or form a new political status with any foreign country or countries.

Mr. President, I appeal to all the Delegates to stop this Constitutional insanity and let us all work together.

Thank you, Mr. President.

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

I call on Delegate Donald B. Mendiola.

**DELEGATE DONALD MENDIOLA:** Thank you, Mr. President.

This is really a touchy issue. Everybody is just

sitting wondering and not trying to say their piece. I'm guessing, assuming, that people are reluctant to say their piece for fear that they may hurt fellow Delegates, or other friends.

However, I would like to make a recommendation. I feel like I'm in a neutral position at this point in time. But I want to explain the changes that we did on Article 18; however, I hope this would enlighten and ease everyone's mind as to the proposed amendment.

I would read it as follows:

"Article 18, section 4(b):

"A proposed constitutional amendment by initiative petition or a proposed consent to a change in the Covenant certified by the Attorney General shall be submitted to the voters for ratification at the next regular general election that is held at least 90 days from the date the petition has been certified or at a special election provided by law and shall become effective if approved by --" here is the correction "-- at least two-thirds of the votes cast Commonwealth-wide and three-fourths of the votes from each House of the Legislature."

Having to require that there be two-thirds vote Commonwealth-wide at the same time with a provision to make it a

three-fourths vote of both Houses.

**DELEGATE HOCOG:** Mr. President.

**DELEGATE DONALD MENDIOLA:** I'm not quite finished.

**DELEGATE HOCOG:** Point of order.

**PRESIDENT GUERRERO:** Sustained.

State your point of order.

**DELEGATE HOCOG:** I would like to bring my very, very good Delegate back to the issue of ratification.

**PRESIDENT GUERRERO:** He is talking about section (b).

**DELEGATE DONALD MENDIOLA:** I'm talking, Mr. Floor Leader.

**PRESIDENT GUERRERO:** Can you wait, please, for the change of tape.

(Tape change.)

**PRESIDENT GUERRERO:** Please.

**DELEGATE DONALD MENDIOLA:** Thank you.

Let me try to do this as slowly as I can so that all the other Delegates can follow what I'm proposing to amend.

**PRESIDENT GUERRERO:** Delegate Mendiola, are you proposing a motion?

**DELEGATE DONALD MENDIOLA:** It's a recommendation.

**PRESIDENT GUERRERO:** Are you debating or are you trying to make a motion?

**DELEGATE DONALD MENDIOLA:** I'm trying to make a subsidiary motion, I suppose.

**PRESIDENT GUERRERO:** Can I entertain, first, the current

motion until we've disposed of that one so we don't confuse the two, since you are making a rather substantive motion, also?

**DELEGATE DONALD MENDIOLA:** Mr. President, yes.

**PRESIDENT GUERRERO:** At this time, I call on Delegate Juan Tenorio.

**DELEGATE JUAN S. TENORIO:** I was going to move to adjourn for lunch.

(The motion was seconded.)

**PRESIDENT GUERRERO:** Can we dispose of the motion, first, before we have lunch?

Those in favor of the motion to amend section 4(b), as stated by Delegate Tom Aldan, please say "Aye."

Those opposed, say "Nay."

Since there was more "nays" than "ayes" and there is a lot of abstention, the motion is defeated.

**DELEGATE VILLAGOMEZ:** Roll call.

**DELEGATE HOCO:** Mr. President, I believe your ears are still intact and you heard right. You heard more "nays" than "ayes."

Please let's stick to your ruling.

**PRESIDENT GUERRERO:** We're back on the main motion. This is the last thing we have. I'd like to dispose of it.

Yes, Delegate Aldan.

**DELEGATE TOMAS B. ALDAN:** I would like to move that this report not be adopted until it goes back to the Committee to

consider allowing the people the right to do a change in the mutual consent provision and not necessarily go through the Legislature.

I think it's only proper that the people be given a road or a highway to do as they please with their own statutes or constitutions or laws.

(The motion was seconded.)

**DELEGATE HOCOG:** Mr. President.

**PRESIDENT GUERRERO:** There is a motion. Let me entertain that motion first.

It has been moved and seconded to refer this back to the Committee.

**DELEGATE TOMAS B. ALDAN:** Yes.

**PRESIDENT GUERRERO:** Discussion?

**DELEGATE MARATITA:** Privilege.

**PRESIDENT GUERRERO:** State your privilege.

**DELEGATE MARATITA:** This particular article is before the Convention floor for first reading.

**PRESIDENT GUERRERO:** Yes.

**DELEGATE MARATITA:** I don't know if we need to refer this back to the Committee now.

If there is any amendment that should be made, it should be made in the Convention.

**PRESIDENT GUERRERO:** The motion is still in order. Let's dispose of the motion. If it's defeated, it stays with the

Convention.

Those in favor of the motion to refer this article back to the Committee, please say "Aye."

Those opposed, say "Nay."

The "no's" have it.

We're back to the main motion.

Con-Con Clerk, roll call.

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

YES: Delegates Marian Aldan-Pierce,  
Carlos Camacho, Esther S. Fleming, Victor B.  
Hocog, Henry U. Hofschneider, Herman T.  
Guerrero, David L. Igitol, Benjamin T.  
Manglona, David Q. Maratita, Donald B.  
Mendiola, Felix R. Nogis, Justo S. Quitugua,  
Joey P. San Nicolas, Teresita A. Santos,  
Bernadita T. Seman, Marylou Ada Sirok, Mariano  
Taitano, Helen Taro-Atalig.

(18 votes)

NO: Delegates Tomas B. Aldan, Juan S.  
Tenorio, Joaquin P. Villagomez.

(3 votes)

ABSTAIN: Delegates Vicente S. Aldan,  
Frances LG. Borja, Lillian A. Tenorio.

(3 votes)

PRESENT: John O. DLR Gonzales.



(1 vote)

**CONVENTION CLERK:** Mr. President, we have 18 members voting yes, three members voting no, three members abstaining, one member voting present, and two members absent.

**PRESIDENT GUERRERO:** Mr. Willens, is "present" considered an abstention?

**MR. WILLENS:** Yes.

**PRESIDENT GUERRERO:** There are four abstentions.

Article 18 passes on first reading.

**DELEGATE VILLAGOMEZ:** I have a motion to adjourn for lunch.

**DELEGATE HOFSCHEIDER:** Mr. President, clarification.

Does the report, No. 7, need to be addressed in the Convention? It was approved in the Committee of the Whole.

**DELEGATE HOCOG:** Mr. President.

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

**DELEGATE HOCOG:** I guess the Committee decided during the Committee of the Whole to also consider Report No. 7.

However, Mr. President, I would like to refer that back until our next plenary session and further instruct the Chair, Mr. President, to provide that those articles legislative in nature to be given to each of the Delegates so we know what we are deleting, if that is not a hard request for the President to do.

(The motion was seconded.)

**PRESIDENT GUERRERO:** Mr. Floor Leader, everybody has a copy of these proposals. It's part of the Journal. Everybody knows what we are discussing, every Delegate has it.

**DELEGATE HOCOG:** Mr. President, we are deleting all legislative amendments, or proposals, on that Report No. 7.

**DELEGATE HOFSCHEIDER:** Only those particular numbers.

**DELEGATE HOCOG:** So at least, Mr. President, I'm not asking too much to burden you to at least give the Delegates --

**DELEGATE HOFSCHEIDER:** Can I state out the numbers?

**PRESIDENT GUERRERO:** We don't need to state it. It's in the Journal. The report is in there. They can read it.

**DELEGATE HOCOG:** Can we have an opportunity --

**PRESIDENT GUERRERO:** We will take it up at the next session.

Delegate Villagomez.

**DELEGATE VILLAGOMEZ:** Yes. Mr. President, I asked earlier, if we could go back, before we go to lunch, to No. 6 that I give notice for my Delegate amendment? Time is running out, and it's very important.

**PRESIDENT GUERRERO:** I believe we gave notice. That has already been numbered pursuant to our procedures.

**DELEGATE VILLAGOMEZ:** I thought we had to formally introduce it now.

**PRESIDENT GUERRERO:** No. It will be included in the Journals.

**DELEGATE VILLAGOMEZ:** Do you know which one?

**PRESIDENT GUERRERO:** I believe Delegate amendment No. 7.

**DELEGATE VILLAGOMEZ:** 8 and 9?

**PRESIDENT GUERRERO:** It will be included in today's Journal.

**DELEGATE VILLAGOMEZ:** Thank you.

**DELEGATE HOCOG:** Mr. President, I believe everybody is really hungry.

I would like to now suspend item 11 in the order of our business and move to item 12.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to suspend item 11 and move to item 12.

Those in favor of the motion say "Aye."

Those opposed, say "nay."

Motion carried.

Mr. Floor Leader.

**DELEGATE HOCOG:** I now move to adjourn subject to the call of the Chair.

(The motion was seconded.)

**PRESIDENT GUERRERO:** It has been moved and seconded to adjourn subject to the call of the chair.

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

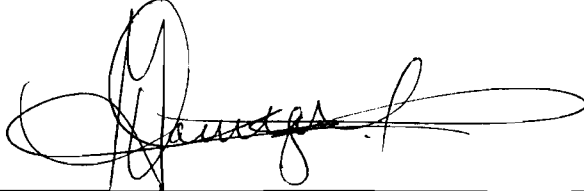
Those opposed, say "Nay."

Motion carried.

We're adjourned.

(The Convention recessed at 1:29 P.M.)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George F.", written over a horizontal line.

Convention Secretary