

July 21, 1995

REPORT OF THE COMMITTEE ON LAND AND PERSONAL RIGHTS

ARTICLE I: PERSONAL RIGHTS, SECOND READING

The Committee presents the following report to the delegates with respect to Article I: Personal Rights, on second reading.

Delegate Proposals: The Committee's Report No. 1 on Article I was prepared on July 2, 1995. After that time, Delegate Proposals 617, 618, and 619 were submitted. The Committee has considered each of these proposals.

Floor discussion: The Committee of the Whole discussed Report No. 1 on July 6, 1995.

One delegate suggested that Section 9 should include protection against harmful and unnecessary noise pollution. The Committee reviewed that suggestion. The reference to harmful and unnecessary noise pollution was added to Section 9 by the 1985 amendments which was modified by the clause "as provided by law". This provision did not actually add anything to the legislature's efforts. Under that provision, if the legislature acted, then harmful and unnecessary noise pollution would be controlled; if the legislature did not act, then such pollution would not be controlled. The constitutional provision did not add any protection. The Committee noted, as was pointed out in the floor discussion, that there are both Commonwealth and federal statutes governing noise pollution and setting certain decibel levels as the standard for protection. The subject of noise pollution is not one that can be dealt with readily at the constitutional level, and the Committee recommends that no change be made to Section 9 in this regard.

Delegate amendments: The Committee received Delegate Amendment No. 9 which proposed two changes in Section 9.

The first change is to change the wording of Section 9 from "public environment" to "environment" which would cover all private property as well as the public environment and to add "as provided by law" at the end of that first sentence. The Committee does not believe that the expansion of Section 9 to cover private disputes is warranted. This would potentially generate a great deal of litigation. Private disputes should be settled under Commonwealth law, not under the Constitution. Adding "as provided by law" would produce the same result as the ineffective 1985 amendments. It would mean that there was nothing to the constitutional provision unless the legislature acted. The Committee does not recommend this change.

The second change is to add to this section the sentence: "Any person may enforce this right against public or private parties as provided by law." The effect of this sentence is to allow lawsuits against private parties as well as public officials under the constitutional provision if the

legislature allows that. The Committee does not recommend this change. First, the legislature can authorize such private lawsuits if it finds that to be in the public interest, and the legislature does not need any constitutional mandate to do so. So this provision accomplishes nothing in that respect. Second, the expansion of the scope of the right to sue that this change tries to bring about is undesirable. This could allow any property owner who was unhappy with the use being made of adjoining property to sue his or her neighbor, or at least to threaten suit. This could lead to unnecessary litigation.

Committee changes: The Committee recommends a change in Article I to create a new Section 11 that would protect the right to life with respect to all kinds of potential threats in the future, such as assisted suicide, euthanasia, genetic engineering, and other problems that the Commonwealth does not now have but that may arise in the future. This section would also provide a policy statement on abortion. The legislature would be given the responsibility to define this right and to regulate activities that might be affected by it. This is a flexible approach to this area that provides the necessary guidance for our government but allows the legislature to act with respect to the details.

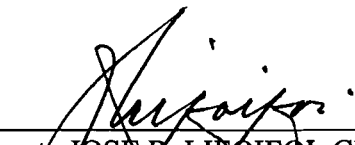
The proposed language is as follows:

Section 11: Life

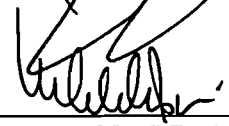
The right to life for every individual during the entire span from conception through old age is respected, honored, and protected in the Commonwealth. This right is subject to definition and regulation by the legislature.

In summary, the Committee recommends no changes to Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 as they passed on first reading. The Committee recommends the addition of a new Section 11 as stated above.

Respectfully submitted,



Delegate JOSE R. LIBOIFOL, Chair



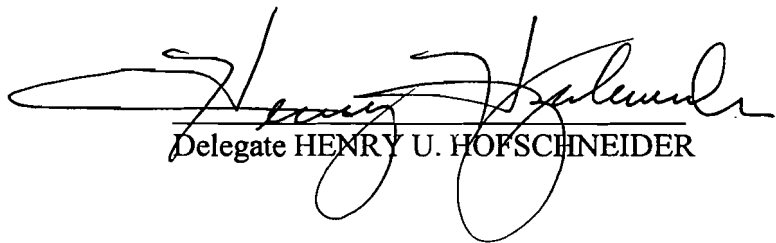
Delegate MARIAN ALDAN-PIERCE, Vice Chair

Delegate CARLOS S. CAMACHO

Delegate DONALD B. MENDIOLA



Delegate JOHN O. DLR GONZALES

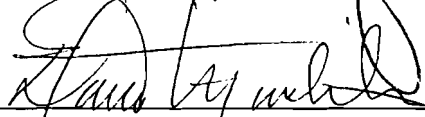


Delegate HENRY U. HOFSCHEIDER

Delegate DAVID L. IGITOL

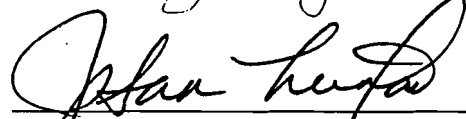


Delegate BENJAMIN T. MANGLONA

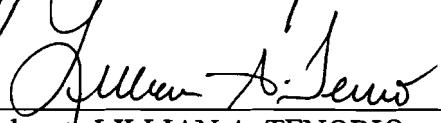


Delegate DAVID Q. MARATITA

Delegate JUSTO S. QUITUGUA



Delegate JOEY P. SAN NICOLAS



Delegate LILLIAN A. TENORIO