

THIRD NORTHERN
MARIANA ISLANDS
CONSTITUTIONAL CONVENTION

DAILY JOURNAL

FORTY-EIGHTH DAY

Saturday, July 22, 1995

PRESIDENT GUERRERO: The 48th day of the Third Northern Marianas Constitutional Convention is called to order.

Please stand for a moment of silence.

(A moment of silence was had.)

PRESIDENT GUERRERO: Thank you.

DELEGATE VILLAGOMEZ: Mr. President. Point of privilege.

PRESIDENT GUERRERO: Yes, Delegate Villagomez.

DELEGATE VILLAGOMEZ: I would like the Convention to recognize the presence of Agnes McPhetres, the president of the Northern Marianas College, and the staff and everybody in the audience.

PRESIDENT GUERRERO: Thank you.

We're going on to preliminary matters.

On preliminary matters, we have three articles on the agenda today. I would like to go for as long as it takes to dispose of all three.

Because of the full schedule today, perhaps we can try to break for lunch at about 12:00 or 12:30.

Con-Con clerk, roll call, please.

(The Convention Clerk called the roll.)

CONVENTION CLERK: Mr. President, we have 24 members present and three absent.

PRESIDENT GUERRERO: Thank you.

We have a quorum to conduct the session today.

I want the record to reflect that Delegate Hocog requested that he be excused today. He has a doctor's appointment off-island.

Delegate James Mendiola, his wife is sick. He has asked to be excused.

Donald Mendiola, he's coming in late.

At this time, I would like to appoint for the day, the Floor Leader, Delegate Tom Aldan.

Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: Mr. President, I move to adopt the Summary Journal for July 20.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to adopt the Summary Journal for July 20th.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

DELEGATE TOMAS B. ALDAN: Mr. President, I move that we adopt the Daily Journals for July 19 and July 20.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to adopt the Daily Journals for July 19 and 20.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

At this time, we move to the reports of the Committees.

The Committee on Organization and Procedures, regarding our schedule next week, we will have a plenary session each weekday starting at 1:30 P.M. to consider articles on second reading.

As I mentioned in the previous session, committees will be reviewing all the articles and considering any Delegate's amendments to the articles that we have already passed on first reading; if there is nothing or they have considered everything, then they will put out a final report to the Convention for its consideration and so forth.

By having the sessions in the afternoon, this will provide the time for the Committees to meet in the mornings and prepare the reports to the Convention regarding the articles coming up for consideration.

We will decide later on in the week the time for the Saturday plenary session, but it will probably be in the

morning.

At this time, I would like to call on the Chair of the Committee on Land and Personal Rights, Delegate Lifoifoi.

PRESIDENT GUERRERO: Delegate Lifoifoi, are you yielding the floor to the vice chair?

DELEGATE LIFOIFOI: I'm going to yield to my vice chair, Delegate Aldan-Pierce.

PRESIDENT GUERRERO: Delegate Aldan-Pierce.

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

Mr. President, the Committee on Land and Personal Rights has completed its report on Article 11 and is ready to present that to the Committee of the Whole today.

Delegate San Nicolas will explain the changes we have made when we get to that discussion.

Our report has been distributed to each Delegate.

The Committee also completed its initial work on Article 12. We have a provisional draft to provide to the Committee of the Whole today.

Delegate Lillian Tenorio will explain the proposed changes from the current Article 12.

Before we complete the report on this article, we would like to have a discussion and get input from the Delegates.

We have distributed to each Delegate a marked-up copy of the current Article 12 showing what has been taken out

and a marked-up copy of the new Article 12 showing what has been added.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Aldan-Pierce.

At this time, I would like to call on the Chair on Legislative Branch and Public Finance.

DELEGATE TOMAS B. ALDAN: Mr. President, your Committee on Legislative Branch and Public Finance has reviewed Article 2, Legislative Branch. It's ready for final reading and submission by next week.

We've also completed our review on the transitional matters, and I believe that will come up next week.

I think the Committee has finished its review on all of the articles given to it.

At this time, I would sincerely like to congratulate the members of the Committee. They had the heart to stand and sit in front of a very mean chairman. I congratulate them for their patience and understanding.

Thank you.

PRESIDENT GUERRERO: Thank you, Chairman Aldan.

At this time, I call on the Chair on Executive Branch and Local Government.

DELEGATE NOGIS: Thank you, Mr. President.

The Committee on Executive Branch and Local Government has deliberated for several days on local government

issues raised by proposed amendments to section 17 of Article 3 pertaining to public services.

At the same time, we're still addressing Article 6, which pertains to the local government aspects of the Constitution.

I would hope, Mr. President, to bring this issue for discussion to the Committee of the Whole. It will give a chance for all Committee members to express themselves and give sort of a direction to the Committee as to what to pursue.

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.

Mr. President, I'm delighted to report that your Committee on Judiciary and Other Elected Offices has completed its work on Articles 4, 5, 9, 15, 18, and 20, which have gone through first readings.

We anticipate proposed Delegate amendments to several of the articles.

I would like to announce that the Committee will be meeting on Monday at 9:00 in the morning. I would like to request members to be present at 9:00.

One more item is the sanctioning of report No. 7 regarding miscellaneous items. We need to address that too

Mr. President.

Thank you.

PRESIDENT GUERRERO: Thank you, Chairman Hofschneider.

For the information of the members, the plenary session on Monday will most likely cover the preamble and Articles 1 and 2.

At this time, we move on to the introduction of proposed amendments.

Any amendments to be introduced?

If not, we move on to motions and resolutions.

Any motions? Any resolutions?

If not, we move on to unfinished business.

If we don't have any unfinished business, we move on to the Special Orders of the Day.

I call on the Floor Leader.

DELEGATE TOMAS B. ALDAN: Mr. President, I move to calendar for the Committee of the Whole the following articles: Article 11, Public Lands; Article 12, Alienation of Lands; and Article 6, Local Government.

(The motion was seconded.)

PRESIDENT GUERRERO: Thank you.

It has been moved and seconded to calendar for the Committee of the Whole Article 11, Article 12, and Article 6.

Discussion?

Yes, Delegate Aldan.

DELEGATE VICENTE ALDAN: Just correcting the Floor Leader, Articles 12 and 6 are for discussion; right?

DELEGATE TOMAS B. ALDAN: I don't know.

PRESIDENT GUERRERO: It's up to the Committee of the Whole on to decide on that one, but it's being calendared. The Committee of the Whole will make that determination in deliberation.

Any other discussion?

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

Those opposed, say "Nay."

Motion carried.

Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: Mr. President, I move that we resolve to the Committee of the Whole.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to resolve into the Committee of the Whole.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

At this time, I would like to appoint Delegate David Igitol to preside over the Committee of the Whole.

I ask him to come up here and assume the Chair.

DELEGATE TOMAS B. ALDAN: Recess for three minutes?

PRESIDENT GUERRERO: Okay. Recess for two minutes while the Chair comes up.

(A recess was taken from 10:26 A.M. to 10:33 A.M.)

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

At this time, we're going to discuss Article 11, Public Lands.

I would like to recognize the vice chairman of that committee.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chair.

I move to adopt in the Committee of the Whole the report of the Committee on Land and Personal Rights with respect to Article 11 on public lands.

We discussed Article 11 at the session of the Committee of the Whole on July 15. Today, we're presenting the completed article. Delegate Joey San Nicolas will explain the changes that have been made.

(The motion was seconded.)

CHAIR IGITOL: There is a motion to adopt Article 11.

Any discussion?

Before I recognize Delegate San Nicolas, I would like to say that I will try to recognize every Delegate to speak once, at least.

Then, if no one wants to speak, then, on the second

time I come around, I will recognize you. First, we will recognize those Delegates that have not spoken.

At the same time, I would like to ask the members of the Committee not to ask questions at this time. I will give the chance to the Delegates.

Then, if you have any questions later on, I'll recognize you.

Delegate San Nicolas, please.

DELEGATE SAN NICOLAS: Thank you, Mr. Chair.

Mr. Chair, the Committee reported to the Committee of the Whole on July 15th with respect to its proposals for Article 11 except for the permanent preserves.

At that time, we were still working on the language to deal with the concept of setting aside land permanently so that our future generations will have open spaces to enjoy on our islands as we have had.

We have completed our proposal. I would like to explain it to the Delegates.

I want to say, however, that although we are asking for your approval on first reading, we are still open to adjustments and suggestions.

I would like to cover all of the changes that we have made since our vice chair, Delegate Aldan-Pierce, presented this proposal on July 15th, and then we will answer any questions you may have about Article 11.

I would like to start with the permanent preserves. This is the largest change. The provisions for the permanent preserves are in section 6 of the draft that was distributed to you this morning. You will find that on page 3.

Section 6 has nine parts. The first part, subsection (a), establishes the permanent preserves and states the guiding principle that these lands may not be sold or dedicated to private uses in any way.

Subsection (b) covers Managaha Island. That formerly was covered by Article 14, which has a section on uninhabited islands set aside for wildlife preserves. We deleted Managaha from Article 14 and moved it here.

Because of the high tourist use, we thought it was more appropriate to place it in this section that includes beaches and other areas of public recreation use. But Managaha's status has not changed. It is still under the same constitutional language as it was in Article 14.

This subsection also covers Bird Island and Forbidden Island on Saipan, and Anyota on Rota.

We think that it is important to protect Bird Island and Forbidden Island so that they can be enjoyed by our people and can be an important tourist attraction in the future.

We have communicated with the Commonwealth Ports Authority about Anyota Island at the request of Delegate Hocog.

To accommodate his concerns, we are proposing to move Anyota Island from Article 14, which requires total preservation for wildlife, to Article 11, which allows public recreational use.

We believe that the plans of the CPA can be accommodated within this category. We will consult with them further this coming week to be sure that they are satisfied.

Subsection (c) covers the sandy beaches. This provision is already in the Constitution. It is subsection 5(e,) which is part of the fundamental policies for public land use. We moved it to the permanent preserves in order to provide maximum protection for the sandy beaches.

Subsection (d) covers other beaches, the cliffs and shorelines of our islands. It provides that the existing public lands that are beaches of this kind are put in the preserve unless the Bureau exempts them.

We want to give the Land Bureau flexibility in this regard. We think it is important to protect the public lands along our shorelines. But we also think that the agency that is in charge of making decisions about the public lands should have flexibility in that regard to allow for development.

In order to have the decisions about exemptions made reasonably soon, we provided a cut-off date of December, 1997. Any lands not exempted by December, 1997, would be in the preserves.

I want to emphasize that these provisions on the preserves only cover public lands. They do not affect private lands in the sense that no private lands will be taken for the preserves.

As has happened in the States, however, private lands adjoining the preserves will become more valuable. That is an inevitable part of setting aside green spaces and recreational areas.

Subsection (e) covers public lands more than 500 feet above sea level.

There are important open spaces in the higher elevations that affect our island's appearance. If we put a lot of big hotels up on the open spaces in the higher elevations, the islands will look considerably different than they do now.

In this area, the Bureau will also have complete authority to exempt any part of the public lands and keep them out of the preserves so as to allow for development. Like the provision for the beaches, they would have to act by December, 1997.

Subsection (f) covers our existing wildlife preserves. This makes these preserves permanent. No new public land has been added here. These have all been set aside already.

Subsection (g) covers the sabana area in Rota. It allows a variety of uses including community farming,

conservation, bird and wildlife preservation, and recreation. It allows a part of these lands to be severed by the Bureau and used for village homesteads.

Subsection (h) makes provision for some land to be set aside on Tinian when the military lands are returned.

Subsection (i) gives the Land Bureau flexibility to set aside other lands permanently. This will cover areas like Navy Hill Softball Field, Garapan Regional Park, As Matuis Public Park, Kagman Public Park, Dan Dan Homestead Park, and Melchor S. Mendiola Park on Rota.

We have consulted extensively with the various agencies that have jurisdiction over public lands and have taken their comments into account into developing these provisions for public reserves.

We have also had other experts in our meetings. We believe this provision is a workable way to insure that some of our public lands are protected permanently for the use and enjoyment of our future generations.

Mr. Chairman, that is my report on permanent preserves. If the vice chair would like to elaborate further on the other changes of Article 11, she may do so.

CHAIR IGITOL: The Chair recognizes Delegate Aldan-Pierce.

DELEGATE ALDAN-PIERCE: Thank you.

I would like to cover other changes that were made

after the last draft to reflect the comments from our Delegates during the discussion on Article 11 in the Committee of the Whole.

Section 1 remains the same.

Section 2 remains the same.

Section 3 remains the same.

In section 4(a), we have added a term limit of one term for directors of the Bureau. These directors serve five-year terms. We think one term is enough.

In section 4(b), we have added a requirement that directors have adequate knowledge of land holding practices, customs, and traditions in the Commonwealth. This, combined with the five-year residency requirement, is intended to insure that these positions are held by persons of Northern Marianas descent, and our report reflects this intention.

In section 4(c), we have added the specifications that the directors, must act by a majority of the five directors to make clear that three must agree to every action.

In section 5(a), we have eliminated the restriction to one village and one agricultural homestead. We have left the policies with respect to homesteads to the Land Bureau.

We have also eliminated the restrictions with respect to mortgages. We have left policies with respect to mortgages to the lending agencies, such as the Retirement Fund.

In section 5(b), we have put in a two-year time

period for action on land exchanges.

We have written an explanation in our report about the importance of clearing up the land exchanges promptly. This two-year period will enforce that.

In section 8(b) we have provided that the trustees of the Marianas Public Land Trust have the sole power to make investments of the Trust assets. This will insure that no one interferes with the judgment of the trustees as to what is a proper investment for the Trust.

Thank you.

CHAIR IGITOL: Thank you.

Any discussion from the members?

Floor Leader.

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

Under 5(a), this language here, where it says a person may not receive a freehold interest under the subsection for three years after a grant, I thought we are going to ease up on the freehold interest if and when the homesteader seeks mortgage financing, so that in the event a mortgage is approved, the financing to build a house on that lot be given; otherwise, we will continue to have a problem with the bank giving such mortgages.

My understanding of the three years, the homesteader is given three years' time to construct the house. That's the general case. If you don't build a house in three

years, they'll take it away.

Now, if the homesteader gets a permit, a homestead permit, and brings that permit to the bank for mortgage purposes, it will not be accepted by the bank unless there is freehold interest.

So I'm suggesting that the language be put in there to allow that, that if the homesteader successfully persuades the bank to lend him or her the money, that a freehold interest should be released.

I think that we can work in the condition in the rules to be promulgated by the Bureau to make sure that the mortgage funds are used to construct the house, and solely for that purpose.

I think a guideline should be set up to make sure that the funds be certified by the Bureau, as well as the inspector, before any money is released to the contractor to make sure that the money is used, in fact, to construct that house on that lot.

Thank you.

CHAIR IGITOL: Can I get the chairman or the vice chairman to respond to that or legal counsel.

MS. SIEMER: The Committee did leave in the three-year provision on the rationale that that was in the 1976 Constitution and that the lending agencies, such as the Retirement Fund, have been able to work with that.

The alternative that you proposed is certainly doable.

CHAIR IGITOL: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman.

I'm going to make a motion, but I'll do that at the end of my statement.

Fellow Delegates, I ask your support to approve the permanent preserve concept. The rapid disappearance of public lands to outside investors in the name of economic development will leave nothing to our children if we do not take action now.

MPLC, under the Executive Order, is under the Governor. You have seen what happened to public lands that are leased for economic development.

Our actions during this Convention will insure that the remaining public land, public beaches, be preserved for the recreational, economic, historical, scenic wildlife benefits so that our children, our great, great grandchildren can experience, see the beauty of what we have now.

If we don't take action now, we're going to wake up -- it's like shooting your foot -- and say, "I should have done it."

All it takes now is for the Governor to assign a 4.9 hectare for 25 years. All it takes now is for the Legislature to grant it away, or the Bureau negotiating with a developer.

Of course, submitting that lease agreement to the Legislature -- a lease of public land above five hectares -- we have seen what happened.

700 hectares of public land are given away in Rota in the name of economic development.

In Saipan, you have seen public lands, Obyan for Haas and Haynie, Ladder Beach for another resort, UMDA. All those were in the name of economic interest.

We have seen what happened to the land north of CHC. That land was reserved for public purposes. The Guerrero administration, through the Lieutenant Governor, reserved that land for the hospital and public schools. It was given away.

I beg of you, fellow Delegates, to think, and let us preserve. Think of the preserve concept. Take a serious look at the American Memorial Park. That is the product of the Lieutenant Governor, Delegate Manglona, the American Memorial Park Committee, former Governor Tenorio, and was continued by the present Governor Froilan. It's a beautiful concept, large areas where the children can play. We have an amphitheater. You can be a vendor. You can allow vendors.

This concept will not stop economic development. It will stimulate it. It incorporates the desire of the government. The government officials want these places to be preserved, but they want flexibility. This will allow them.

Take a look, a serious look at Forbidden Island,

the Grotto and Bird Island. Think of Hawaii, what they did to Hanama Bay. It's a marine conservation area. You can go down and play. Perhaps the area can be cleared, allow a restaurant. It allows economic development, but it preserves the beaches.

Certain areas in our islands, Saipan, Tinian, and Rota, and throughout the Marianas, are where the medicinal plants are. We need to protect that, too. This is a proposal of Delegate Mendiola's. I beg of you to do it, preserve certain areas. They're now in Managaha, Obyan, and other areas.

The Bureau, in the preparation of the master plan, will incorporate the uses of the area, the priorities, and the design, a grand design, will last us to insure protection for economic development, preservation of our historical sites, archaeological sites, and recreational sites.

With that, Mr. Chairman, and before I leave, since you are going to allow me only one time to talk, I would like to make a motion, or would you allow me to make the motion later on?

CHAIR IGITOL: There is a motion on the floor already.

DELEGATE VILLAGOMEZ: A subsidiary motion?

CHAIR IGITOL: No need.

DELEGATE VILLAGOMEZ: This is in addition to the -- it's a subsidiary motion.

CHAIR IGITOL: There is a motion on the floor.

DELEGATE VILLAGOMEZ: It is a subsidiary motion.

CHAIR IGITOL: Go ahead and state it, and we'll discuss it later on.

DELEGATE VILLAGOMEZ: Okay. Thank you.

I so move on section 5(d) that language be included at the end that the Bureau shall allow for interisland land exchanges.

(The motion was seconded.)

CHAIR IGITOL: Moved and seconded.

Discussion?

Mr. President.

PRESIDENT GUERRERO: Mr. Chairman, I don't think it's necessary, that amendment. If you look at section 1 on public land, especially towards the last sentence, all public lands collectively belong to the people of the Commonwealth of the Northern Marianas Islands.

If it collectively belongs to everybody, it does not mean that the land in Saipan belongs to the people of Saipan only. It does not mean that the land in Tinian belongs to the people of Tinian. It does not mean that the land in Rota belongs to the people of Rota. It means every person here in the Northern Marianas has it, it belongs to them.

If it follows from that logic, Mr. Chairman, that means to prevent people from Saipan from having land exchanges in the other islands, you are violating the intent of this provision of the Constitution.

I don't think it's within the prerogative of the Board to decide that. I know there is legislation, current statutes on the books, that does not allow that. I think it went beyond the original intent of the Constitution.

It needs to be looked at seriously. Just because the Legislature enacted specific laws, it does not mean that it's constitutional. It is just that no one has challenged the constitutionality of that law.

All public lands belong collectively to the people of the Commonwealth. If we don't allow interisland exchanges, then, technically, Mr. Chairman, we're violating the law. We're discriminating on the basis of where you are coming from. I don't agree with that concept.

I think that whatever statute that is enacted is unconstitutional and should not be enforced. The mechanism is there already.

I don't see the need to specifically mention it again. What is obvious already, you don't need to spell it out in detail.

I'm not in favor of the motion. It's already been addressed. It's already taken care of.

I know his intention is good and noble. I agree 100 percent with the Delegate Villagomez. I think his concern has been addressed under the current Constitution.

Thank you, Mr. Chairman.

CHAIR IGITOL: Before I recognize the other members of the Committee, I would like to recognize the Floor Leader.

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

Maybe legal counsel can enlighten the Delegates whether that is clear in the Constitution already, that interisland land exchange is permitted.

If it's not, maybe we can put it someplace in the legislative history that the intent of the section being identified by the President is included so that we don't need to proceed with the motion. Otherwise, I think it should be clear that it's allowed.

To leave it with the present system, I'm pretty sure that until that law is challenged, we will continue to follow that public policy.

Thank you.

CHAIR IGITOL: Maybe we'll ask our legal counsel, Howard.

Can you respond to that?

MR. WILLENS: I defer to my counsel.

CHAIR IGITOL: He's referring to his counsel right now.

MS. SIEMER: The President is correct. It's covered in by the first section. Chair Aldan is also correct. It certainly can be made clear in the legislative history.

CHAIR IGITOL: Any other members that would like to enter the discussion?

Delegate Ben Aldan.

DELEGATE VICENTE ALDAN: Thank you, Mr. Chair.

This is a question for the legal counsel. This interisland exchange, I want it clarified. Is the interisland exchange for the purpose of facilitating public purpose, or is it for facilitating personal interests?

MS. SIEMER: No. The land exchanges are only for public purposes.

DELEGATE VICENTE ALDAN: Interisland land exchange?

MS. SIEMER: Right.

The question is: Does the Bureau have authority to do that?

The answer is: The Bureau has the authority to do that, and that can be made clear in the legislative history.

DELEGATE VICENTE ALDAN: Thank you.

CHAIR IGITOL: If no other Delegate would like to speak, I'll recognize Dr. Camacho first.

DELEGATE CAMACHO: Mr. Chairman, I yield to Delegate Manglona first.

DELEGATE MANGLONA: Thank you, Mr. Chairman.

I tend to agree with the President that there is already a mechanism or a provision in our Constitution that will deal with that concern, perhaps on a case-by-case basis.

I would just like to strongly caution the Delegates that if, in fact, the intention is to take all of our problems on Saipan, especially pertaining to lands that need to be

exchanged, I don't believe that we have enough land to exchange on Rota. It's not that I say that we cannot. I think we should. But on a case-by-case basis as it pertains to public interests, to government interests, then maybe we should permit it in that case.

But if the intention is that we should take all of the existing land exchange problems in Saipan and exchange them in Rota, believe me, there is not enough land to accommodate them there.

Believe me, it's going to be overly burdensome to the people in their respective islands if that would ever happen.

CHAIR IGITOL: Go ahead, Delegate Camacho.

DELEGATE CAMACHO: Thank you, Mr. Chairman.

(Statements in Chamorro.)

CHAIR IGITOL: Pause for a change of tape.

(Tape change.)

CHAIR IGITOL: You may proceed.

DELEGATE CAMACHO: (Statements in Chamorro.)

Mr. Chairman, if you don't mind, I would like to translate what I just said for the reporter.

It has been 50 years since the War. 30 of that was under the military and under the Trust Territory. 20-some years have been under the CNMI, or more.

We're asking for two years to allow the Marianas

Land Bureau, the new entity that will replace the Marianas Public Land Corporation, to retire or resolve or reduce the backlog of land problems here in the CNMI.

I'm not talking about homesteads, both village and agricultural homesteads. I'm talking about pending problems. Our people consistently and repeatedly have asked that the government do something to resolve their problems and not wait until crises develop, like closing the main thoroughfare or something like that.

Two years is very honorable. I don't know the rationale behind the two years.

I thought five years might be more appropriate, because then it will pressure the Marianas Land Bureau to do something; otherwise, there will be no money coming in to either the government and or to the individual personally.

Therefore, they will work hard to try to resolve the problem, and those people in their dying age already will know that something has been done about their problems so their children will not inherit all these problems after so many years.

We've been to public hearings not only in this Con-Con, but prior to that, and that is all they talk about. Yet, we're not doing anything, or the government is not doing anything.

Please, Delegates, if you don't think of yourself

or your selfish interests, think about your children who will inherit this problem.

I thought five years would be appropriate. The reason behind it is that if the Marianas Land Bureau knows that they cannot lease public land for commercial purposes for five years, I'll tell you they'll work hard. Because then there will be no money personally for whoever is involved, either the Governor or anybody down below.

Thank you, Mr. Chairman.

CHAIR IGITOL: Thank you, Delegate Camacho.

I would like to recognize Delegate Marylou Sirok.

DELEGATE SIROK: Thank you, Mr. Chairman.

I work for the Housing Corporation. I want a clarification or maybe a further explanation of the intent of the 5(a) provision to include a homestead housing component. How would that work within the Bureau?

DELEGATE TOMAS B. ALDAN: Point of order.

Can we dispose of the motion? I don't know whether my good Delegate from Saipan would want to withdraw his motion in light of the fact that it's clear in 5(a), and it would be more clarified in the legislative history to allow interisland land exchanges.

CHAIR IGITOL: Delegate Villagomez, are you planning on withdrawing?

DELEGATE VILLAGOMEZ: By including it in the legislative

history, Deanne, is it as strong as putting it in the Constitution?

MS. SIEMER: If it is constitutional now, we don't add anything by putting it in. It is our view that that is constitutional.

DELEGATE VILLAGOMEZ: Are you saying the present law, which prohibits interisland exchanges, is a violation of the Constitution?

MS. SIEMER: I have not reviewed the specific Public Law, but if it is a flat prohibition, then that would be our view.

DELEGATE VILLAGOMEZ: There is a 10-year restriction. I forgot when. That happened during Fifth Legislature.

MS. SIEMER: I have not reviewed it. I can't speak to the specific legislation, but a flat prohibition across the board that prohibited land exchanges among the islands would not be consistent with the grant in the Covenant and the first provision in this article.

DELEGATE VILLAGOMEZ: I would rather have, Mr. Chairman, the group vote on it and dispose of it.

DELEGATE TOMAS B. ALDAN: Can I add, maybe, Delegate Villagomez, I did not hear what Deanne said.

In other words, if this provision of the Constitution is ratified, basically, that law will be nullified, because this would say that it would allow interisland land exchanges?

Is that correct?

MS. SIEMER: That is what the Land Bureau would follow. The Land Bureau is created by this article. They will follow the legislative history with respect to this article.

They, too, could, for policy reasons, for example, decide on a one-year moratorium while they got themselves collected and made their decisions. They could impose a temporary moratorium, but a permanent prohibition would not be allowed.

CHAIR IGITOL: Ready for the question.

DELEGATE VILLAGOMEZ: I'll withdraw.

CHAIR IGITOL: Thank you, Delegate Villagomez. At this time, I'll recognize Delegate Maratita.

I'm sorry. Delegate Sirok, please continue.

DELEGATE SIROK: On the housing question, I just want a clarification. I work down at the Housing Corporation. I'm still not sure of the intent of providing a homestead housing component within the Land Bureau. What is the purpose of it?

MS. SIEMER: The current problem is that there is simply not enough land left to process all of the homestead applications.

So the question becomes: Is there another way to satisfy some homestead requirements?

This is a provision of authority. It's not a direction. It allows homesteads in the urban sense, which would

be, for example, a larger building that might house five or six families.

They would own their homestead, but it would be in a condominium. It allows that.

The Bureau would, of course, work with the existing housing agencies and work within the existing framework to do that.

The Bureau would not have that authority now to make grants for homestead purposes and to use public land to house more than one family.

So it is intended only as a grant of power, not as a direction for any specific program.

DELEGATE SIROK: One more question.

Is the Land Bureau going to put in power before they build the homestead and provide the necessary infrastructure, like water, sewer, roads, and everything?

MS. SIEMER: It is within the power of the Bureau. They're not required to do it, but they have the power to do it.

DELEGATE SIROK: Thank you.

DELEGATE VICENTE ALDAN: Thank you, Mr. Chair.

This is a question for our legal counsel or Madam Chair or the Chair for Land and Personal Rights.

In my original proposal, I introduced the concept of -- we always talk about the scarcity of land, we don't have enough land, but we do not provide a mechanism for getting more

land. That concept is land banking.

I would like to ask what the Committee has done with that and, you know, whether that would be more of a legislative matter?

MS. SIEMER: The Committee considered that. It's within the grant to the Bureau.

The idea is to give the Bureau flexibility to figure out what is the best way to go about these various approaches.

The Bureau is required to come up with a comprehensive plan and to act in accordance with that plan. That is the time at which they would consider your concept.

CHAIR IGITOL: Any other discussion?

Floor Leader.

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

In looking over the investment scheme for MPLT, I would like to recommend that it be changed a little bit.

I would like to suggest that at least 40 percent of the assets available for investment shall be invested in fixed income securities, grade A or better, issued in the United States of America, and at least 60 percent of the assets available for investment may be invested in stocks or equities of companies listed on the New York Exchange or recognized stock exchange in the United States if the New York Stock Exchange is replaced, and that the Trustee shall have the sole power to make

investment decisions.

I would like to have that incorporated.

I saw the investment language. It only has the 40 percent specified. I would like to make it clear that 40 percent in fixed income and 60 percent in equities.

MS. SIEMER: The reason, Chair Aldan; that the 60 percent is not specified is the flexibility for the Trust to invest in backing mortgages on homesteads. If it's 40 percent for bonds and 60 percent for stocks, they wouldn't have the flexibility to do that.

DELEGATE TOMAS B. ALDAN: I saw the language on the 40 percent.

My reading of that language is that it should allow the board to make the decision to should invest up to 40 percent of the assets available in investment mortgage-backed financing.

If you look at language closely, that 40 percent is restricted to interest income. I'm talking about the principal and any interest income thereafter.

In other words, let's say the MPLT takes 20 percent, in other words, the balance of 80 percent, 40 percent of that should be invested in fixed in income securities, and 60 percent of the 80 percent balance should be invested in equities, that kind of ratio.

MS. SIEMER: Perhaps, the best way to work that out is to add a little bit here, but to explain how that would work in the

legislative history.

The concern about the A grade was that the grading systems may change in the future. The concern about the New York Exchange is the same, just general concern.

You can explain in the legislative history which stock exchange you are talking about. But if you put the New York Stock Exchange in the Constitution and it goes out of existence or changes its name, then you have a problem. I understand the concept that the Chair is suggesting.

DELEGATE TOMAS B. ALDAN: Okay.

CHAIR IGITOL: Any other Delegates before I recognize the Delegates that have spoken before?

None.

Delegate Manglona.

DELEGATE MANGLONA: Mr. Chairman, I have a concern regarding land exchange.

I appreciate the concern by our former Governor. The situation in Saipan and Rota is, perhaps, different. On Rota, we have an ongoing land exchange program.

I believe I have explained this to our legal counsel and also to our chairman during the Committee's deliberation.

In the case of Rota, during the Trust Territory administration, we petitioned the High Commissioner to return former owners' property that was land exchanged by the Japanese

administration under duress.

The High Commissioner permitted us to take our original property in the land exchange. We still are going through the process.

I'm afraid that if we don't make this recommendation clear, it may affect that ongoing land exchange program on the island of Rota. I'm going to ask the Chairman and also our legal counsel to take a careful review, in view of this concern, and see if the section can be reworded or maybe to provide a legislative history that will not deprive these people from getting back the original property which they lost during the War.

CHAIR IGITOL: Floor Leader.

DELEGATE TOMAS B. ALDAN: My understanding of the general law, and I'm not a lawyer, is that if and when this provision is ratified, every single case of land exchanges that has not been settled would be settled pursuant to the new Constitution and rules and regulations promulgated by the Bureau.

I kind of like that application. It may be that we should give the Bureau that chance to look at the issues, and make its decision based on a provision that is available now and is more clearly defined in a new set of laws, which is our Constitution and whatever rules and regulations that may be so promulgated.

Thank you.

CHAIR IGITOL: I will recognize the President first.

PRESIDENT GUERRERO: Mr. Chairman, I think Delegate Camacho had his hand up first. Before you recognize me, can I yield to him first, and then you come back to me?

CHAIR IGITOL: Okay.

PRESIDENT GUERRERO: If it isn't, then I want to --

DELEGATE CAMACHO: Thank you, Mr. President, for yielding for an older man.

(Statements in Chamorro.)

The first comment I have is a question, which is probably directed to the legal counsel. Is the intention of the two years considered to be the time that will resolve all the backlog on the land problems and all that?

MS. SIEMER: Yes. That is the intention. The authorities that have jurisdiction over this now and the people that have worked on this problem in the past have advised that many of the land exchanges are simply stalled because the landowner is asking for too much and the government cannot agree to that.

All those can be resolved if the government will say it cannot agree in its fiduciary capacity because the landowner is asking for too much.

There are a relatively few difficult current cases. It was the judgment that those could be resolved within the two-year period, and that providing a longer period would just

cause more delay for the reason that most of the delay is incurred because people simply don't want to make up their minds about whether these should be denied or not.

DELEGATE CAMACHO: Mr. Chairman.

(Statements in Chamorro)

It's a superman effort to try and resolve all the land problems in two years.

I'm afraid that other priorities of the Marianas Land Bureau will step in that will supersede the problem of land exchange and then come up with a rush report that the following are land problems that we cannot resolve.

In other words, pass the buck back to the individual with land problems so that they will have to hire a lawyer and go to court.

I'm not an expert on land; therefore, I cannot comment too much on how long it takes to resolve.

Can somebody tell me how long it took to resolve the problem in San Jose with regard to the Mentrú Fair, the resolution whereby a land exchange was made? How long has this case been pending?

Does anybody know?

CHAIR IGITOL: I believe that is resolved.

Floor Leader.

DELEGATE TOMAS B. ALDAN: To answer the question, for as long as I can remember.

Mr. Chairman, I think Delegate Camacho has an interest in either increasing the two years to five years, and I would recommend he make a motion to adopt either the two years or the five years and resolve this issue.

I would like to respect the Committee's proposals or suggestions, give them the benefit of the doubt, and see whether or not they can exercise the eminent domain power and clear up everything.

DELEGATE CAMACHO: Thank you, Mr. Floor Leader. You preempted me. I was leading up to the motion.

I would like to propose a motion to the effect that the Marianas Land Bureau would have up to five years to resolve this problem. If they finish it in one year, I'll clap my hands and jump.

That is not part of the motion, by the way.

(The motion was seconded.)

CHAIR IGITOL: Motion is seconded.

Any discussion on the motion?

No.

Ready for the vote.

Yes.

DELEGATE ALDAN-PIERCE: Just a clarification.

What about commercial leases? Does he want there to be a moratorium on those while the pending land exchanges are being resolved?

CHAIR IGITOL: Delegate Camacho.

DELEGATE CAMACHO: Mr. Chairman, the motion is specifically for commercial development. It is to stop the government from leasing out commercially pieces of limited public land for up to five years.

I use the words up to five years because I really do not know the scope of work, except for the fact that over the years, less than half of my life span, I've heard nothing but land exchange problems. I thought, as I mentioned, if they can resolve it in six months, so be it. If they can resolve it in one year, so be it.

CHAIR IGITOL: Your motion is for commercial land?

DELEGATE CAMACHO: Yes.

DELEGATE TOMAS B. ALDAN: Privilege.

CHAIR IGITOL: State your privilege.

DELEGATE TOMAS B. ALDAN: Would you please advise the audience in the back that the kids are making noise and we can't hear the arguments clearly.

Thank you.

CHAIR IGITOL: The audience in the back, please remain silent.

Thank you.

DELEGATE CAMACHO: I realize that this motion will affect probably Rota and Tinian, who have not developed to the extent that I would have liked, especially in view of my previous

statement of my long-standing belief that for us to be economically stable, we have to develop all our islands, and we should therefore divert development to these islands.

That's why I put in the words "up to five years." So that if it is resolved in one year, it's too little to ask for the interest and concern of our many people who have consistently and repeatedly turned to us as leaders, both past and present, both surviving and those who have gone to another world, that they should be resolved, and now their children have inherited this problem.

That is my motion, Mr. Chairman.

If the legal counsel would like to put it in legal form, I would be satisfied with that.

CHAIR IGITOL: Okay.

I go back to the President. Do you still want to speak?

PRESIDENT GUERRERO: Actually, he has a different motion. That is not the point I want to discuss, I still retain my right to speak on another issue that Delegate Manglona raised. But I yield at this time.

CHAIR IGITOL: Okay.

Are you going to speak on the motion?

DELEGATE GONZALES: Yes.

This wouldn't affect the current pending commercial leases, would they? It would only be effective June 5th until

now, not the pending commercial leases?

MS. SIEMER: If the only change is from two years to five years in section 5(b), what that would do is establish for the Bureau a priority of resolving the commercial leases. Two years is a higher priority than five years, but it would establish a priority in clearing those leases up.

But there is no language here that prohibits action with respect to commercial leases in the meantime. The Bureau directors have a fiduciary duty to get this work on land exchanges done, but there is no moratorium.

CHAIR IGITOL: Any more discussion on the motion.

Delegate Quitugua.

DELEGATE QUITUGUA: Thank you, Mr. Chairman.

I was going to ask Deanne if it the legislative history -- the Bureau should take action within two years.

I'm kind of concerned about Rota. I know all the Delegates want Rota to develop and be self-sustaining and contribute more to the Commonwealth general funds.

If we can direct the Bureau to take action and do this in two years, that would help Rota in going forward and generating more revenues for the Commonwealth.

Thank you.

MS. SIEMER: Yes, Delegate Quitugua.

That language you requested is on page 6 of the report at the top, and I think it covers that concern that you

raised.

CHAIR IGITOL: To the motion.

DELEGATE ALDAN-PIERCE: Yes.

CHAIR IGITOL: Go ahead.

DELEGATE ALDAN-PIERCE: One of the biggest problems and one reason why there is a big backlog on land exchanges is that the agency, MPLC, and the landowner cannot agree on the value.

I don't think that changing from two years to five years is going to resolve that problem. That's one of the reasons why the Committee is recommending that we go two years.

Page 6 of the report states that the Bureau may hire private contractors to help with the paperwork. A lot of the pending land exchanges already have a history. There is not going to be that much research to be done.

Another reason that we recommended the two years is so that the government can start using the eminent domain power to resolve this because land is diminishing fast.

Thank you.

CHAIR IGITOL: We will now go to the motion.

DELEGATE GONZALES: Point of information.

CHAIR IGITOL: Yes.

DELEGATE GONZALES: I want to remind the Delegates that there was a revision in the Land Exchange Act. That provides for a 1 to 1 land exchange as opposed to 1 to 30, 1 to 20.

That is now the effective regulation that was

promulgated by the Division of Public Lands prior to the Convention.

I saw the regulations. So it provides for a 1 to 1 land exchange. I consulted with Mr. Vicente Santos and Mr. Herman Q. Guerrero at the Division of Public Lands and that is what is effective now.

MS. SIEMER: That is why many of these land exchange problems can be cleared up very quickly, because the landowners simply will not agree to 1 to 1. It takes no time to clear those up.

DELEGATE MANGLONA: Mr. Chairman.

CHAIR IGITOL: We have heard enough on this subject.

We'll go to the motion. The motion is to --

DELEGATE MANGLONA: Point of information.

I think this motion, Mr. Chairman, will affect my senatorial district, and if I say something, I would appreciate if I'm afforded that opportunity.

DELEGATE VILLAGOMEZ: If Mr. Chairman, if you do that, please allow me to speak in support.

CHAIR IGITOL: Go ahead, Delegate Manglona. You will be the last one, and then we will take the vote.

DELEGATE MANGLONA: Thank you, very much.

I certainly share the concern of our former Governor; however, let me say that that proposal will tend to retard our economic development.

I wonder if we can rephrase the motion or maybe have our legal counsel even put it in the constitutional history so that what lease of property in Rota has already been approved by the Legislature and MPLC should not be affected by this decision and let me just say that we have three developers whose leases are approved. This is the Southern Cross and Agroupa Enterprises and the Nikko Corporation. So if that could protected, I would like to ask the Delegates to please do so because in the interest of development, we need that to be preserved.

CHAIR IGITOL: We'll go to the motion.

DELEGATE CAMACHO: Mr. Chairman, excuse my interruption.

The legal counsel, can we hear your comment on the fact that there are three already approved leases in Rota?

Would they be included in this motion to prohibit the Marianas Land Bureau from leasing commercial public land for commercial purposes until all land exchanges are resolved and allowing a time period of up to five years?

MS. SIEMER: Pending leases would all be covered. That is, the Rota developers would be covered, just like the Saipan developers would be covered. The Bureau would not be able to distinguish among them.

That is the reason that the Committee recommended two years to get this cleared up, and the Committee recommended a priority but not a mandate.

DELEGATE TOMAS B. ALDAN: Motion to end debate.

(The motion was seconded.)

CHAIR IGITOL: For the motion to end debate.

All those in favor to end debate say "Aye."

Opposed.

(The motion carried.)

CHAIR IGITOL: The motion is to increase from two to five years on land exchange.

All in favor, say "Aye."

Opposed.

Motion is defeated.

I would like to go on a five-minute recess to give the court reporter a rest, and when we come back, I'll recognize the President.

(A recess was taken.)

CHAIR IGITOL: Resume.

Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: Mr. Chairman, I move the previous question.

(The motion was seconded.)

CHAIR IGITOL: I'll ask the clerk for a roll call please, a roll call vote.

(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
 Oliver Gonzales, Herman T. Guerrero, Henry U.
 Hofschneider, David L. Igitol, Jose R.
 Lifoifoi, David Q. Maratita, Felix R. Nogis,
 Justo Quitugua, Joey P. San Nicolas,
 Teresita A. Santos, Bernadita T. Seman, Marylou
 Ada Sirok, Helen Taro-Atalig, Juan S. Tenorio,
 Lillian A. Tenorio, Joaquin P. Villagomez.

(21 votes)

NO: (None.)

ABSTAIN: Delegates Carlos S. Camacho,
 Benjamin T. Manglona. (2 votes)

CONVENTION CLERK: Mr. President, we have 21 members
 voting yes, two members abstaining, and four members absent.

CHAIR IGITOL: The motion passed to adopt Article 11.

For the record, Delegate Taitano has asked to be
 excused. He has to go to the hospital. He's not feeling good.

Floor Leader, please.

DELEGATE TOMAS B. ALDAN: Based on the recommendation of
 the President, Mr. Chairman, I move that we break for a one-hour
 lunch.

(The motion was seconded.)

CHAIR IGITOL: Why don't we introduce Article 12 first,
 and then after that we will go to lunch.

DELEGATE VILLAGOMEZ: Point of order, Mr. Chairman. A

motion to adjourn, don't we have to vote on it or you have the prerogative to decide?

CHAIR IGITOL: It was a request for recess.

Vice chair.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chairman.

I would like to have a discussion in the Committee of the Whole on the proposed language to change Article 12. Delegate Lillian Tenorio will explain these changes.

(The motion was seconded.)

DELEGATE LILLIAN A. TENORIO: Mr. Chair, on behalf of the Committee on Land and Personal Rights, I would like to present the Committee's proposed draft on Article 12 for discussion.

Article 12 is a very technical, legal subject because land rights are involved. I am going to explain the basic changes that the Committee recommends for consideration and the language in the draft that implements those changes.

You have two documents before you on Article 12. The first is the proposed new draft showing language that has been added. The second is the current provision showing language that has been taken out.

It might be useful if I went all the way through Article 12 because all the provisions are linked, and then we can answer questions.

The Committee has sent a member of the legal team who has been working with us to interview lawyers from all kinds

of practices here in Saipan about the proposed language to amend Article 12.

Written comments have been received and we propose to continue this consultation process while the Committee's report is being written so that we can have a legislative history that makes our intent clear.

Our effort has been to develop a consensus, where possible, and at least an understanding as to what we intend to accomplish.

Article 12 has a relatively simple structure you should keep in mind as we are looking at individual sections. Section 1 is the basic rule. Sections 2, 3, 4, and 5 define the terms that are found in section 1. Section 6 tells what happens if there is a violation of section 1.

Starting with section 1, the basic rule remains the same. The acquisition of permanent and long-term interests in real property within the Commonwealth is restricted to persons of Northern Marianas descent. That is the rule required by the Covenant.

We have added a provision that requires disclosure in any land sale transaction. This disclosure by the buyer to the owner must include facts necessary to insure fairness. This means that the landowner must have the necessary facts so that the transaction is a fair one.

For example, if the owner knows that the person he

or she is selling to is an agent, knows that a commission is being paid, knows that a parcel is assembled for lease for a commercial purpose and wants to go ahead with the transaction, having those facts, then we think the person of Northern Marianas descent should be able to make that decision.

We think that disclosure of the basic facts is important to overcoming the perception, whether true or not, that foreign investors and their agents have sometimes taken advantage of local people in land transactions.

Our intent is to provide in the legislative history a description of the basic facts that need to be disclosed. This rule will not require disclosure of every fact known to the buyer, only the basic facts necessary to make the transaction fair.

Section 2 defines the term "acquisition" as that is used in section 1.

If something is an acquisition, then it is regulated by Article 12. If it is not an acquisition, then Article 12 does not apply.

The basic definition of an acquisition includes acquisition by sales, leases, gifts, and every other means.

The Committee recommends three exceptions to the basic definition. One, there is an exception for transfers by inheritance to a child or grandchild. This means that children who are not 25 percent Northern Marianas descent can inherit

family land no matter what percentage they are.

Under this exception family lands will be kept within the family regardless of the operation of Article 12.

Thus, for generations on to come, even if Article 12 is never amended again, all our children, their children, and their children's children will be able to inherit the family lands.

Two, there is an exception for spouses and adopted children who are not of Northern Marianas descent. A spouse who has worked long and hard for many years with his or her mate and invested in joint family property should not be denied all inheritance of land. For this reason, we have suggested that a spouse be able to take a life estate. That is like a lease for life.

During this spouse's life, he or she would be able to have the income from that land for their support. But the land would eventually have to come back to someone of Northern Marianas descent. The spouse would not be able to transfer title.

Similarly, adopted children who are adopted before the age of six years would be able to inherit a life interest. We put in the age limit to take care of the fraudulent adoptions of 17-year olds for purposes of transferring title.

Three, there is an exception for transfers involved in the foreclosure of mortgages. This is basically the same as

the 1976 provision that was amended in 1985.

Our counsel recommended that we cleanup the language and a change has been made for that purpose. It does not change the meaning of this exception.

If this exception for mortgages was not included in Article 12, no one would be able to get a mortgage because the banks would have no security.

Section 3 provides the definition of permanent and long-term interests in real property used in section 1.

Under section 3, if a lease is longer than 55 years, including renewal rights, then it is a permanent and long-term interest and cannot be acquired by anyone who is not of Northern Marianas descent.

There have been a number of terms put in leases that try to get around the 55-year limitation. Some of these are buy-back provisions, which require the owner to buy back any improvements put on the land.

Some of these are change of law provisions which say that if the law permits the holder of the lease to get title, then title is automatically granted.

There are a variety of methods used for this purpose. We believe that all of these are unconstitutional under the current Article 12.

In order to protect against any more imaginative devices created by lawyers, we have added the phrase "and

related obligations." This means that if any device is used to get around the 55-year limitation, the transaction will violate Article 12.

We think that all of the problems with past leases can be cleaned up with a simple clear rule about what is permitted and what is not.

The simple answer is that 55 years is permitted and anything that goes beyond that, or puts any pressure of any kind on the landowner to go beyond that, is not permitted.

The provisions in current leases that go beyond 55 years would be severable and no one would have to go to court. At the end of the 55 years, the lease would be over and the land would come back to the Northern Marianas owner.

Section 3 currently contains an exception for condominium interests above the first floor. Our counsel has recommended that we take this out and several Delegate proposals suggested the same thing.

We are advised that this exception is impractical in legal terms and would result in litigation if it were used. The Committee recommends that it be deleted.

You will see this deletion marked on your copy of the current Article 12.

Section 4 provides the definition of persons of Northern Marianas descent. We have suggested the possibility of one change here, changing the qualifying date from 1950 to 1960.

There are some Chamorros from Saipan who were sent to Guam and Yap and other places by the Japanese and did not get back to Saipan until after 1950.

Even if their families had a long history on Saipan before the War, if they got back in January of 1951, they aren't persons of Northern Marianas descent.

We are cautious about changing this date. It means that anyone who is born or domiciled in the Northern Marianas between 1950 and 1960 and who was a Trust Territory citizen now becomes 100 percent Northern Marianas descent.

We know that no one from the States or from Guam who came here between 1950 and 1960 can qualify. They are United States citizens, not Trust Territory citizens. We know that no one from Japan or the Philippines can qualify. They are also not Trust Territory citizens.

The only class of persons other than returning Chamorros who could be included at this early date are other Micronesians.

The Trust Territory headquarters was not established in Saipan until 1962. So we know that there are very few Micronesians who were government workers here back then.

We think that moving the date from 1950 to 1960 involves relatively little risk of including nonChamorros and it would be of great importance to the Chamorros who returned

during that period.

It is not necessary to change the date from 1950 to 1960. The class of people who are affected is relatively small, but we think it would be fair to do so.

Section 5 covers corporations. We have made considerable changes here.

Back in 1976, a corporation could qualify as a person of Northern Marianas descent if it was incorporated in the Commonwealth, had its principal place of business in the Commonwealth, had 51 percent of its directors, who were persons of Northern Marianas descent, and had 51 percent of its voting shares in the hands of persons of Northern Marianas descent.

In 1985, the Convention changed this to 100 percent of the directors and 100 percent of the voting shares.

In 1985, the Convention also tried to clean up some of the abuses. They provided that minors could not be directors, that trusts and voting by proxy were not permitted, and beneficial title could not be severed from legal title.

We propose to close all of the loopholes at present and in the future by providing that the directors that are of Northern Marianas must govern and the shareholders of Northern Marianas must own and vote actually, completely, and directly.

However, we think that it would be beneficial to persons of Northern Marianas descent to be able to attract capital to their companies from sources that are not persons of

Northern Marianas descent.

If we keep the 100 percent requirement, then locals who have cash will be fine, but locals who do not have cash will have a limited pool from which they can raise funds, so we propose to go back to the 1976 standard of 51 percent.

Under this standard, the persons of Northern Marianas descent would actually own the majority interest and would actually run the company or it would not qualify to own land.

We think that with the loopholes gone, this will protect our interests sufficiently.

Section 6 provides for enforcement. We have made three changes here.

First, we have changed the remedy from void ab initio to voidable. Basically, we are giving the courts some flexibility to decide what to do when there has been a violation of Article 12.

The voidable standard means that the courts look at all the circumstances, including whether there was a knowing violation or just an innocent mistake and then decide what would be fair.

The Court can decide to apply the void ab initio standard. That is one choice. The Court can also decide to void only part of the transaction or it can decide to change the transaction to make it fair.

We think the voidable standard will help Article 12 achieve its fundamental objective of keeping our land in the hands of Northern Marianas owners.

When a Northern Marianas person buys in good faith and pays hard-earned money, that person should not lose his or her land because there is a flaw somewhere back in the title.

Conversely, when a foreign investor deliberately tries to get around Article 12, that person should lose his or her lease.

The second change we made is to create an office in the Attorney General's office where landowners can go for advice. This office would monitor Article 12 transactions and would be able to spot illegal practices as they come up rather than waiting for years for the transaction to be challenged in court.

The Attorney General could go into court and challenge illegal transactions. This does not mean that private suits by landowners would be displaced. Landowners who have a cause of action could still sue on their own.

The third change we made is to put in a statute of limitations. This is a six-year period from the date of the transaction.

Any cause of action would have to be brought within this six-year period or it would be lost. This does not mean that if there was a fraud in the transaction, the landowner

would still be barred. There is always an exception for fraud.

In connection with the six-year statute of limitations, we are still discussing the possibility of a one-year grace period for people who would be barred by the statute because their transactions occurred before 1990.

If you look at the current Article 12, you will see that we have deleted quite a lot from section 6. This is all language about corporations that was made necessary by the void ab initio rule.

It described what happened when a corporation ceased to be qualified as a Northern Marianas descent person. With the voidable standard, this is not needed.

We plan to issue a detailed report. But we want to get a consensus as to the Convention's wishes about Article 12 before we do that.

The principles that we are trying to accomplish are straightforward, as I have explained. The report will need to have examples and language to describe exactly what is covered.

Once we are clear about what we want, we can make sure that the report covers all the problem areas.

We plan to continue to consult with lawyers and others who are interested in the subject on all sides of the issue to make sure that our examples are clear and that our statements cannot be misunderstood or misapplied.

Thank you.

CHAIR IGITOL: Thank you, Delegate Tenorio.

At this time, I would like to say that we will go ahead and break for lunch and come back at 1:30 this afternoon.

(A recess was taken from 12:17 P.M. to 2:15 P.M.)

///

///

///

CHAIR IGITOL: The Committee of the Whole will now come to order. We will now discuss Article 12. Are we going to discuss section by section?

DELEGATE T. ALDAN: I think that would be a prudent approach.

CHAIR IGITOL: Section 1, any questions or comments on section 1?

Mr. Floor Leader.

DELEGATE T. ALDAN: I just wondered if we adopt the disclosure provision, would there be any lawsuits because of the fact that it was not disclosed previously?

MS. SIEMER: (Indicating "No").

CHAIR IGITOL: Delegate Seman.

DELEGATE SEMAN: If I heard it correctly, according to the statement read by Delegate Ada Tenorio, in that disclosure you have for what purpose is the land being acquired and if it is going to be for a commercial purpose.

If the person acquiring the property said that it is going to be residential and then, whether it is a short or long period of time, turned that purpose to commercial, would that conflict with the disclosure requirement?

MS. SIEMER: The disclosure has to be truthful and fair, and the disclosure has to be made at the time of the transaction. So if there is a present intent at the time of the transaction to do something such as you have suggested, that would affect the transaction and the transaction couldn't be upheld. The intent is not to lock people in to a particular use but the intent is to be truthful at the time of the transaction.

CHAIR IGITOL: Mr. President.

PRESIDENT GUERRERO: Perhaps Delegate Tenorio, can repeat what she thinks needs to be said or what she said disclosure means, so we are all very clear about it. Can she repeat those three things? We don't have it.

DELEGATE TENORIO: This is an example that is given. 1, if the owner knows that the person he or she is selling to is an agent; 2, knows that a commission is being paid; and, 3, knows that a parcel is being assembled for lease for a commercial purpose. Those are the three basic facts.

PRESIDENT GUERRERO: So, basically, Mr. Chairman, those are the three things that we are talking about disclosing, nothing else, no add-ons that will create problems later on?

MS. SIEMER: That's the intent, Mr. President. The legislative history would specify, describe and explain what adequate disclosure is. Lawyers want certainty in this world. They want to know what they have to disclose. The three things that Delegate Tenorio has explained are the things that were reflected in the proposals by delegates, were reflected in the discussion, as the basics. That's what makes a transaction fair. If you know the person is an agent; you know a commission is being paid, and you know that the land is going to be flipped as they say in the profession, then if you know all of those things and you freely decide to go ahead because it is in your best interest, then that transaction is fine.

PRESIDENT GUERRERO: Those are the three tests that every transaction has to meet?

MS. SIEMER: That is correct. That is what has been suggested thus far; it would be open to delegates to add to that list but that is the list that has been suggested by all the delegates on the Committee thus far.

PRESIDENT GUERRERO: Thank you.

CHAIR IGITOL: Delegate Ben Aldan.

DELEGATE V. ALDAN: You mentioned an agent. What

if that agent is a corporation? I know that is under section 5. Does that disclosure disclose whether that corporation is of Northern Marianas descent, or the skeleton of the corporation, whether it could own land here in the Commonwealth or not?

MS. SIEMER: A corporation is bound by the same rules that a person would be, yes, and if the corporation is not qualified to own land here then they can't enter into that transaction.

DELEGATE V. ALDAN: So the agent can be a corporation?

MS. SIEMER: A corporation can act as an agent, yes.

CHAIR IGITOL: Delegate Camacho.

DELEGATE CAMACHO: Excuse me, did you recognize me, Mr. Chairman?

CHAIR IGITOL: Yes.

DELEGATE CAMACHO: Thank you. First of all, I am happy that you indicated the format on this. I would have liked since Delegate Lillian Tenorio read the whole Article 12 at one time, that we should be allowed to comment on every section based on how we felt, but since you have made the decision that the format will be to go section by section, I would like to abide by

that.

Before I make my comment though, Mr. Chairman, I would like to ask the legal counsel if there has been a change in open government and also in accessibility of nondelegates to participate in Committee meetings other than executive session or COP and all that?

MS. SIEMER: No, there has been no change.

DELEGATE CAMACHO: I asked that question because yesterday there was a Committee meeting in the library and a private individual made an attempt to come in and participate by observing -- maybe the word is wrong, not participate -- but sit in and listen to the deliberation and was told initially and later on corrected that it was an executive session, and then, of course, the chairman made the ruling that it is because he is a lawyer and because of the name of the individual. He has ruled, and concurred by the vice-chairman, that that is the prerogative of the chairman of the Committee that people can be barred from attending Committee meetings.

DELEGATE LIFOIFOI: Privilege, Mr. Chairman. We are supposed to be discussing section 2 now, section 2 of Article 12.

DELEGATE LILLIAN TENORIO: Section 1.

DELEGATE CAMACHO: Section 1, but this is a general statement I am making prior to that. So if Delegate Lifoifoi, chairman of the Committee on Land and Personal Rights, would allow me to continue.

DELEGATE LIFOIFOI: No, Mr. Chairman. We don't have time for this nonsense.

DELEGATE CAMACHO: Mr. Chairman --

CHAIR IGITOL: Can we stay on section 1, please. You will be allowed to speak later on.

DELEGATE CAMACHO: This issue of time is really another key issue. But I won't go into that now. I will reserve that portion of my comment on time until a later date.

CHAIR IGITOL: Thank you.

DELEGATE CAMACHO: First of all, this language relating to disclosure is not a bad idea, I want you to know. The meaning though is unclear. I would like to recommend that this kind of language should not be added here. It should be added in another section, or an a subsection of section 1, or it can be added to section 6 on enforcement.

The meaning of the words used in the new disclosure clause is unclear. Mr. Chairman, I ask the

question: Disclosure of what? By whom? To whom?
When? Where? Who will enforce it?

And I would like to ask the legal counsel to answer that later on when I finish section 1. What will be the consequence of failure to disclose? How does the duty of disclosure relate to the first clause of section 1 which contains the prohibition against ownership? Am I correct to assume that it doesn't?

The meaning of the terms "fairness" and "timely enforcement" is unclear. Article 12 has nothing to do with being fair or unfair.

Article 12 is supposed to prohibit ownership of land by those forbidden to own it. The framers have decided that those restrictions are fair. The only question is how to enforce them. I would like to recommend, as I recommended in the past, that this article be returned to the Committee for further discussion and further research. The idea is good, but it will be useless when it comes to interpretation and enforcement in the courts unless it is made more clear and understandable. I would like again, as I mentioned in the past, that this issue for today at least be kept for discussion purposes rather than pushing for passage on first reading.

And, Mr. Chairman, I would like to reserve my right to comment on Article 2 and all the way back to the last of this part.

Thank you.

CHAIR IGITOL: I will ask counsel to comment on that.

MS. SIEMER: I think I can deal with Delegate Camacho's concerns. First his concern that the meaning of the term "disclosure" is unclear. There is nothing unclear about "disclosure." It is a term long used in legal procedures. It is very clear. It means that one person has to tell another person something in an effective fashion.

Dr. Camacho suggested that this language should be in another section or in a subsection of section 1. I think that is wrong and suggesting that it be in a subsection of section 1 is the same thing as saying it should be in section 1. The reason disclosure is in section 1 is that it is the operative section. Section 1 is the basic rule and section 6 is the enforcement of the rule.

Delegate Camacho has asked disclosure of what. Delegate Tenorio has explained that.

Delegate Camacho has asked disclosure by whom

and to whom. That is very direct, by the buyer to the seller. The landowner is entitled to information so that the landowner can decide whether to go ahead with this transaction or not.

Dr. Camacho has asked when and where this disclosure would have to be done. It has to be done before the transaction so that the owner can decide whether or not to go ahead with the transaction. Typically, in these kinds of arrangements, disclosure will be made in a document that is readily available so that there has been a demonstration that disclosure has been made. It will take no great feat as a lawyer to understand how to do disclosure and to do it properly. It is done in all kinds of transactions, all kinds of commercial transactions every day all around the world. This is not hard to do.

The question who will enforce it, Dr. Camacho asks. The answer to that is there is a provision in section 6 that allows the Attorney General to assist with respect to this, and any landowner to whom disclosure has not been provided as required has the same cause of action that they have now. What will be the consequence of failing to disclose? A transaction will not comply with Article 12. That is the intent.

Dr. Camacho's next question: How does the duty of disclosure relate to the first clause of section 1. It relates directly to the first clause of section 1.

Dr. Camacho's concern that the terms "fairness" and "timely enforcement" are unclear -- fairness is a concept that has also been embedded in the law for a long time. What using the term fairness allows you to do, is to have a court as the ultimate decision-maker decide if something is fair taking into account all the circumstances. It is a flexible term. It is much better than embedding in the Constitution specific requirements because this Constitution may last for 30, 50 or 100 years, and circumstances may change. That is the reason for the flexible standard.

Dr. Camacho says that Article 12 is supposed to prohibit ownership of land by those forbidden to own it. That is not correct. Article 12 is supposed to protect persons of Northern Marianas descent and to assist and aid them in maintaining a stable prosperous Commonwealth. That is what Article 12 was originally intended to do. That is what it was intended to do in the Covenant. That is what it was intended to do in the 1976 Constitution. There isn't anything in the

Covenant's concept that requires a particular remedy.

Dr. Camacho is concerned that the restrictions don't need to be fair and they don't need to be rational; they just need to be clear. That is a judgment for the delegates to make. The delegates are here to consider whether Article 12 works well or whether it doesn't, whether it needs to be changed or whether it doesn't.

If there are any other questions with respect to that, I will be happy to answer them. I think it is fair to say that the legislative history will be important in specifying exactly how these things will be implemented. That is the reason why the Committee asked me to consult with lawyers all across the spectrum in the Commonwealth to find out their views about what the problems might be with the language the Committee was considering, and I have done that. I have spent hours and hours and hours consulting with all kinds of lawyers. I have gotten their written views. I have gotten their oral views. And it is the Committee's direction that I continue to do that so that the report reflects everyone's understanding of exactly how these things would work. I am doing that to the very best of my ability and it is, I will say,

testing my patience but I am trying hard.

DELEGATE CAMACHO: Mr. Chairman, can I continue?

The questions have been answered, and I have additional questions.

CHAIR IGITOL: Still on section 1?

DELEGATE CAMACHO: Yes, on section 1.

CHAIR IGITOL: Before you go let me recognize the others. I will come back to you.

DELEGATE CAMACHO: Okay. Thank you.

CHAIR IGITOL: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman.

Deanne, is it possible to share the written documents from the lawyers on the draft language that is out. I would appreciate getting copies.

MS. SIEMER: I think if the Committee needs those, they certainly can have them. Most of them have been provided so that I can understand what people's positions are. But certainly anything that has been directed to the convention is absolutely available for anybody who needs it. Most of these documents have to do with legal concepts and with specific kinds of examples, but certainly you are welcome to them.

DELEGATE VILLAGOMEZ: Yes, I have a good lawyer friend I would like to consult.

CHAIR IGITOL: Delegate Aldan.

DELEGATE V. ALDAN: The same request. I don't know whether the Committee saw those written documents but I have never seen them and I would like to see them for myself and make the decision based on those written documents.

MS. SIEMER: Principally what the lawyers need to know is what the convention wants to do. The convention needs to make a choice about the basic things that it wants to do and then the question is does the language do that.

DELEGATE V. ALDAN: I know that our counselor is very capable and I have high regards for them, but I as a delegate would like to see those written documents -- I don't know about the other delegates -- if that is possible.

Thank you.

Go ahead, Delegate Camacho.

DELEGATE CAMACHO: Mr. Chairman, English is not my mother tongue. I try to keep my thoughts in some order so that I will continue. That is why I indicated that I will ask the question and if it is answered hopefully I will be allowed to continue but I am losing the train of my thoughts because of my limited knowledge on the

legal ramification of a lot of these things.

A lot of people think I am educated. I don't think so myself, and as a result of that, I need not only written documents but I need to consult, but on top of that if I lose my train of thought, then, you know, like somebody mentioned that I am out of order which may be true.

I would like the chair to understand the real function of the delegates. We are the ones that will vote on the Constitution, the product of this and, therefore, we should be fully informed of what is happening so that we will know all sides of the issue so that we can make an intelligent decision when the time comes. Otherwise, instead of people working for us we are working for them because then they will be putting things in front of us that they thought would be good or right without allowing us the opportunity to review ourselves what we think is right and vote on that basis.

That brings me to another question and I would like to just ask this. What if a Japanese approaches a landowner and say he wants to buy the land. Then that Japanese negotiates a completely fair deal at a completely fair price and naturally buys the

land. He takes the title in the name of a friend who is of Northern Marianas descent. Is that transaction legal?

MS. SIEMER: Well, why don't we take that apart because that is a question that some lawyer has posed, so let's first take the transaction.

The transaction is between one person of Northern Marianas descent and another person of Northern Marianas descent; is that right?

DELEGATE CAMACHO: The Japanese negotiated and bought the property but he used in the title the name of a the Northern Mariana. Is that one Northern Marianas resident against another Marianas resident?

MS. SIEMER: The title was held by one Northern Marianas person and the title is now going to a second Northern Marianas person; is that right?

DELEGATE CAMACHO: Right.

MS. SIEMER: Now, the second question is has the person that has bought the property disclosed to the owner that he is an agent; that he is buying the property using money from somebody else; that he is going to turn around and lease the property to somebody else? Has he disclosed that?

DELEGATE CAMACHO: Well, according to the new

provision he is supposed to disclose.

MS. SIEMER: He is supposed to disclose that. So if a Northern Marianas descent owner knows that the person he is dealing with is an agent; knows that that person is going to make money on the deal; knows it is a Japanese person with whom it is going to be leased, is there anything wrong with that transaction?

DELEGATE CAMACHO: Thank you for your answer. You are being a lawyer versus somebody who knows a little bit.

MS. SIEMER: No, I am asking you specifically about a policy that a layman can understand very well. The question is, do the delegates want to allow a transaction between one Northern Marianas person and another Northern Marianas person where the person who is selling the land knows the specific facts that affect this transaction, the landowner knows those facts.

DELEGATE CAMACHO: Do you really believe that putting in the name of the Northern Marianas resident in the title makes it actually bought by that individual? Do you really believe that?

MS. SIEMER: I believe that persons of Northern Marianas descent are very intelligent; they are very

Careful about land and that they are entitled to make transactions that they want to make if they know the facts and they have a fair disclosure. I think the people of Northern Marianas descent are tremendously good businessmen. They are very good at land transactions and they ought to be able to make up their own minds as long as they have the information to make the transaction fair. That is my personal view. The question before the delegates is: Is that what you want to provide in the Constitution?

DELEGATE CAMACHO: You are saying if it is not disclosed then it is illegal?

MS. SIEMER: That is the purpose of the disclosure requirement is to put the landowner in the position to have the information that he or she needs to be able to make up their mind as to whether they want to sell that land.

DELEGATE CAMACHO: Thank you, Mr. Chairman.

Since the issue of what is the intent of Article 12 was brought up a little bit earlier, I was a delegate in the first Constitutional Convention, and I am not sure that what you are saying about fairness and all this is really part of the issue that was brought up in the first Constitutional Convention. I know that

you played a major role in the first Constitutional Convention as the legal counsel, but we are the ones that signed it, and, therefore, we should be more accountable of what was in that document.

Mr. Chairman, I am going to yield now to someone else to collect my thoughts. Thank you.

Thank you, Deanne, for your response.

CHAIR IGITOL: Delegate Aldan, section 1.

DELEGATE V. ALDAN: Yes. Deanne, what kind of protection, with this disclosure, can we use to protect those people of Northern Marianas descent that are not very sophisticated like you described? Is there a mechanism to protect those?

MS. SIEMER: Yes, one of the delegate proposals that has been included in the draft with respect to Article 12 is a provision that the attorney general would set up an office so that any landowner who thought that he or she was not sophisticated in land transactions or was worried about how a particular article in a lease or a sale would work -- that person would have a place to go that would not cost money, and therefore there wouldn't be that disincentive, where they could get a neutral and informed view as to the transaction that they could take into account or not.

No one has to follow the advice the attorney general's office would give. It would be place to go to get that kind of information however.

DELEGATE V. ALDAN: Okay. Thanks.

CHAIR IGITOL: Any other on section 1?

We will move to section 2, Acquisition. Any question on this section?

Delegate Seman.

DELEGATE SEMAN: Thank you, Mr. Chairman. I would like to make a motion to amend this section of Article 12. I am not sure of the legal phrase but, for a child who was adopted before six years of age, rather than just a life interest, that he or she be allowed to inherit and pass on that inheritance to his or her heirs.

(The motion was seconded).

MS. SIEMER: That is readily done if the delegates want to do that.

DELEGATE SEMAN: Moved and seconded.

DELEGATE ALDAN-PIERCE: It has been moved and seconded.

CHAIR IGITOL: Moved and seconded. Any discussion on that motion.

Delegate Ben Aldan.

DELEGATE V. ALDAN: I want to pose the question to the mover. What happens if the child is not of Northern Marianas descent? Are you saying that that person can transfer land to a person of nonNorthern Marianas descent, just for the record?

DELEGATE SEMAN: What I meant is that the child not of Northern Marianas descent who was adopted before six years of age can pass on that inheritance to his or her heirs who may or may not be considered Northern Marianas descent whatever is the percentage.

DELEGATE LILLIAN TENORIO: Children of Northern Marianas descent not heirs?

DELEGATE SEMAN: Children, descendants.

CHAIR IGITOL: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman. Deanne, I must apologize. As I said earlier, legal terms are very hard for me and I am trying to have a clear reading of the new motion as proposed by Delegate Seman, to allow a person who is adopted by a person of Northern Marianas descent to inherit land and pass it on to his or her children. My question is: Will this adopted child less than five years old be eligible for homestead?

MS. SIEMER: No.

DELEGATE LILLIAN TENORIO: No.

DELEGATE VILLAGOMEZ: Thank you.

CHAIR IGITOL: Any other question on this motion?

May I ask the mover to restate the motion again, please.

DELEGATE SEMAN: I would like to move to amend section 2 to allow the child who is not of Northern Marianas descent and who was adopted before six years of age to inherit and to pass that inheritance also to his or her descendants.

CHAIR IGITOL: All of those in favor of that motion say "Aye."

Opposed? The ayes have it.

Any other discussion of section 2?

Delegate Camacho.

DELEGATE CAMACHO: Mr. Chairman, if you must know, and the delegates, I am reading from the analysis that was made; so you can follow it for those of you who have copies of the analysis that was distributed this morning.

CHAIR IGITOL: Whose analysis?

DELEGATE CAMACHO: The analysis was made at my request by a lawyer whom I have hired to help me identify and clarify and inform me and educate me on

Article 12 because of my ignorance and because of the fact that documents were not being made available to me and, therefore, I cannot intelligently review.

The first sentence of this section should have new language added to it to make it absolutely clear that both the Third Constitutional Convention and the framers of the First Constitutional Convention intend that Article 12 prohibits every and any kind of acquisition no matter what false label the lawyers may put on it, no matter whether the true nature of the transaction is concealed from view, and no matter whether the parties of the transaction put false documents in the recorder's office.

If there is any comment on this part by the legal counsel, not necessarily for or against, I would like to hear it.

MS. SIEMER: I did talk to Mr. Mitchell about this and I did make a change with respect to this. You will notice that in the original version of the Constitution there is a sentence about acquisition and then there are separate sentences with respect to exceptions. The structure here has been changed so that it now says: "The term acquisition used in section 1 includes acquisition by sale, lease, gift or other means,

except," and it states the exceptions clearly. There are three of them, as Delegate Tenorio has described and anything that does not fall in those exceptions is an acquisition that is covered.

And so, yes, I have attempted to accommodate that concern and the legislative history will reflect that intent.

DELEGATE CAMACHO: Thank you.

CHAIR IGITOL: Any other comment?

DELEGATE VILLAGOMEZ: Point of information.

CHAIR IGITOL: Okay. State your point.

DELEGATE VILLAGOMEZ: Could Deanne please help me. I have before me a draft of 12 that is marked red and also another one made yellow. I don't know how marked this, and somehow the two don't jive. Which is the latest?

MS. SIEMER: The yellow one is the current provision of the Constitution. And the yellow marking shows you what has been taken out. The pink one is the Committee's draft and the pink marking shows you what has been added.

DELEGATE VILLAGOMEZ: Thank you. I think Delegate Tenorio mentioned it but I am sorry my ear is not that good this morning -- this afternoon.

CHAIR IGITOL: Any other comment on section 2?

None?

Let's move to section 3. Any comment on section 3. No?

Okay. We move to section 4. Any question or comments?

Delegate Sirok.

DELEGATE SIROK: Thank you, Mr. Chairman. I just need to ask about the change of date from 1950 to 1960. Delegate Tenorio mentioned that there are several families that were affected by this. I want to know exactly how many families are affected by this and why is the change from 1950 to 1960.

CHAIR IGITOL: Delegate Tenorio?

DELEGATE LILLIAN TENORIO: I can respond.

CHAIR IGITOL: Delegate Tenorio, go ahead.

DELEGATE LILLIAN TENORIO: As I said the class of people that is affected is relatively small. I don't have an exact number. We are recommending this change because we believe that it is fair to do so. It is not a necessary change but we are recommending that it be changed.

CHAIR IGITOL: Delegate Aldan, Ben.

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

You know, I believe that we should just stick with 1950.

Now, if we are concerned about including those people that came from Yap they actually came in 1948. If we are concerned about giving those people who came from Palau, think first do the people from Palau allow us Chamorros to own land there? And now we are going to yield and give a small number of people land here in the Commonwealth when they do not have that same reciprocity?

This is our land. When they grow up and they say Chamorros can own land in Palau, then the Palauans can own land in the Northern Marianas.

PRESIDENT GUERRERO: Point of information.

CHAIR IGITOL: State your point.

PRESIDENT GUERRERO: We are talking about the Chamorros that came from Palau because they were there prior to the war and those are the people we are talking about. It is not the regular Palauan citizens that we are talking about on this issue.

Thank you, Mr. Chairman.

CHAIR IGITOL: That's right.

Delegate Gonzales.

DELEGATE GONZALES: Let me yield to Dr. Aldan.

Delegate Aldan, are you done?

DELEGATE V. ALDAN: No, not yet.

Let me bring up one more point. I may be out of order, but this is when we change that portion of the corporation from 100 percent to 51 percent.

Let's say 49 percent of that --

CHAIR IGITOL: I will point out that you are citing another section.

DELEGATE V. ALDAN: I know, I know.

CHAIR IGITOL: Can you stick to section 4, please.

Delegate Villagomez.

DELEGATE VILLAGOMEZ: Mr. Chairman, and Deanne, please help me.

What is the main reason for this 1960? Why not 1955? Why not 1940? Or why not 1995? Are we diluting? If we are going to allow that, then make it up to 1995, or maybe the start of the Chamorro civilization here about 2,000 years ago. Maybe when Magellan came in 1621. My question is: Is there a pending lawsuit, pending or maybe a finished lawsuit, if the Constitution is changed, will it help that?

MS. SIEMER: Let me try to respond to that, Delegate Villagomez.

The Committee heard at public hearings some

testimony with respect to this problem and one of the lawyers on the island, Brian McMahon, had done some research with respect to Chamorros who were forced to leave here before the war and did not make it back by 1950. There were a number of families, perhaps as many as 50 or 60 families that did not make it back by 1950. They may have come in 1951 or 1952 or they may have come later. Some of those families came back to Saipan and some to Tinian. Insofar as we know Rota is not involved in this. The reason for the 1960 date is that we know that by 1960, there were not many people other than Chamorros who could qualify here. Nobody from the United States qualifies because they are United States citizens; they are not Trust Territory citizens. Nobody from Guam qualifies because they are United States citizens. Nobody from Japan or the Philippines qualifies because they are not Trust Territory citizens. So the only other group of people who could have come here between 1950 or 1960 who were not Chamorros who were returning is possibly someone from Micronesia who is a Trust Territory citizen. So it is possible that there were a few Micronesians that came here, but the reason the date was set at 1960 is that the Trust Territory headquarters was not

established here until 1962 and that was the time in which more Micronesians came here. So the effort here is to accommodate the Chamorros who were here before the war, came back here but didn't make it by 1950, and I think as Delegate Tenorio explained this is not a necessary change. This is not a change that affects a lot of people. This is a change that was presented at public hearings and it seemed to the Committee to be fair, but it is not a requirement.

DELEGATE VILLAGOMEZ: May I follow up
Mr. Chairman? Just one?

I want to make a statement. Will you allow me?

CHAIR IGITOL: Limited, yes.

Hold on. Change of tape.

(Brief pause).

CHAIR IGITOL: Proceed.

DELEGATE VILLAGOMEZ: Mr. Chairman, during the public hearing I raised the issue to Mr. Brian McMahon to please provide the information. We want to know the numbers, and who. I got a document that blanks out the people's names. I wonder why. I mean if those are court documents why not? I mean we are here to make decisions. If we are to change to allow those people,

wouldn't it be fair to know who since we are allowing a change from 1950 to 1960? All I was doing was asking for information, and he never provided that.

Could you answer my second question?

MS. SIEMER: There is no lawsuit that I know of that would be determined by this change.

DELEGATE VILLAGOMEZ: Thank you.

CHAIR IGITOL: Delegate Gonzales.

DELEGATE GONZALES: I would like to also put in my two cents here. I mentioned yesterday at the Committee meeting, when I saw 1960, butterflies ran within my head and my stomach. I couldn't fathom or understand the major justification or rationale for why the change. If it is substantive I do not know of any justification. If it is something to accommodate a handful of people in light of what has already transpired since the inception of CNMI government, I don't know. All I know, my friends, is I am gravely concerned with the repercussions that this will have. I yield to the legal experts, our esteemed legal counsel, Deanne Siemer, but my grave concern is that the argument that we are going to accommodate the so-called 60 families, I am concerned that in the process of accommodating the handful of 60 families, we

are perhaps going to be caught in a vacuum where we are expecting to accommodate 1,000 over the 60. I don't know. Absent substantive and sincere justification to change it to 1960, I beg for your indulgence to keep it at 1950. I don't see any reason why we should change it up to 1960.

As Delegate Villagomez mentioned, why not 1995 why not 1951, 1953. As Delegate Tenorio aired in her report, it is not necessary to change it. I would add that it is not perhaps substantive. I don't think there is a need for us to change. I question why the need for such a change and I only wish that Mr. McMahon provided us with honesty and sincerity why he brought this issue up.

Thank you.

MS. SIEMER: Remember Delegate Gonzales that the Marianas were closed up through 1960 and that it was not possible to come here without permission from the military authorities. That is one of the reasons why we think that the class of people who would covered from 1950 to 1960 are Chamorros because those are the people that the military permitted to come back. There was a government installation here that was supposedly highly secret at the time, although it seems like

everyone knew exactly what it was, but for that reason this area was closed and there was no free immigration as you know it now. You couldn't come here without a special permit from the military.

DELEGATE GONZALES: So none of those came back at that time; is that correct? Or some came back and some stayed back because of technicality issues? Would that be correct?

MS. SIEMER: The military did allow Chamorros to return during that period of 1950 to 1960 but the military controlled this area and they were very strict. Delegate Lifoifoi who was here at the time and worked under this administration can tell you how that worked. It was not an open area. This was a military area. You couldn't come up just because you wished to sail up to the shores.

DELEGATE GONZALES: Some were accepted and some were were not?

MS. SIEMER: The military allowed certain people to come back, and its policy was to allow Chamorros to come back. Indeed it helped people from Yap to evacuate there and come back.

CHAIR IGITOL: I have delegates as they raise their hands -- Dr. Camacho, Delegate Aldan, President

Guerrero and Floor Leader.

DELEGATE CAMACHO: Thank you, Mr. Chairman. First of all, while it is true that we were under the military, the Chamorros in Yap and Palau were actually given all the opportunity to come back. It is not a question that they will be barred; some of them decided to stay behind because of their, you might say, involvement and also because they own a lot of property in those groups of islands. So the military shouldn't be made an excuse because they are delayed in coming back because it was CNMI or Saipan was administered by the military.

Mr. Chairman, you went so fast on me that I didn't comment on section 3. I would like to ask first to comment on section 4 since we are on section 4 but would you please give me an opportunity to comment on section 3 even now or I will invoke my privilege to comment on section 3 if you will not allow me.

CHAIR IGITOL: Still on section 4.

DELEGATE CAMACHO: Because of the date for domicile in the Northern Marianas which is being changed from '50 to the year '60. I would like to ask what exactly will be the effect of this change.

For example, and I will cite the case, would

it affect pending Article 12 case known as
Joaquin Tudela vs. Commonwealth Investment Company?

Mr. Chairman, may we hear from the legal
counsel on this?

MS. SIEMER: There is no case that I know of that
it would affect.

DELEGATE CAMACHO: There is no case known as
Joaquin Tudela vs. Commonwealth Investment Company?

MS. SIEMER: The question here is should a Chamorro
who came back between 1950 and 1960 be covered. The
question is not whether a lawsuit should be resolved or
not. The question is, is it fair for Chamorro people
who came here between 1950 and 1960 to be covered. The
answer may be no, and we will stay with the 1950 date.
The answer may be yes, and we will go to 1960. But the
question is not resolving lawsuits; the question is
what is fair for Chamorro people.

DELEGATE CAMACHO: The reason I asked this
question is, the individual involved in here is
involved in a case and is being questioned as to his
domicile? I don't want to mention names but I just
wanted to find out whether this is the rationale behind
this change from the '50 to the '60.

Also, Mr. Chairman, in the discussion on

domicile in the Committee meeting yesterday they mentioned the Aldan family and the Aldan family is my family also, at least the Aldan they are talking about. And I think there is only one Aldan on the island.

But now they are not being mentioned. They are mentioning other people. This confused me because, you see, we have not seen any documents. As mentioned, there were documents submitted by the various attorneys. And yet the delegates are not privy to these documents.

MS. SIEMER: No, that is not correct. That document is in the Daily Journal. The only documents that I believe Dr. Ben Aldan was referring to are memos that were sent to me as counsel for the Convention, to help explain to me some of the background. Every document that has been sent to the Convention has been put in the Daily Journal and many, many trees have fallen for this purpose.

DELEGATE CAMACHO: May I ask then that the documents that you get from the legal counsel in your search for a solution to all the problems on Article 12 be made available to all the delegates so that they can review them and make an intelligent decision on this

particular matter?

MS. SIEMER: All of those documents have always been available to any delegate who is interested in this subject matter.

DELEGATE CAMACHO: Thank you, Mr. Chairman. I waive my right but I ask that I be allowed to go back to section 3, not necessarily now but before we finish all the delegates' comments on section 4. Thank you, sir.

CHAIR IGITOL: Let me call Delegate Aldan-Pierce maybe in light of that question you raised.

DELEGATE ALDAN-PIERCE: Yes. Thank you, Mr. Chairman. I just want Dr. Camacho be able to sleep well tonight and rest assured that the change from the date from 1950 to 1960 will not take care of the particular lawsuit he was talking about. I know because I am a shareholder, I am an officer and I am a director of Commonwealth Investment.

Thank you.

CHAIR IGITOL: President Guerrero.

PRESIDENT GUERRERO: Mr. Chairman, I only know of two families and there might be others. I know that the family of Bishop Camacho, they came through Amgar in Palau and also that Dr. Chong's family came through,

I think, New Guinea and Palau to Saipan. I don't know when they came to Saipan, but if the intent of this is to cover them, I think they have every right because they also have family lands here in the Northern Marianas and we sure don't want to disenfranchise them. But I don't know all the facts at this time to make an educated guess or to make a clean decision in terms of whether those people came prior to 1950 or they came after 1950. It is true the military were here. Of course, they tried to hide it. It is better known as the CIA. They called it naval training technical unit and they were training Chinese nationalists from Taiwan to infiltrate Mainland China.

I remember those days; I was still young, but I remember because I have seen trucks passing through town covered completely. So you don't know what you are supposed to see but you know people talk about it. Of course, there are Chamorros that sneak into the Marpi area. They are supposed to live and work and they are not supposed to know what is going on or where they are, but everybody knows on the island.

I am still kind of concerned about which families came back after 1950. I think we need to have certain facts rather than just updating it and changing

the date from 1950 to 1960. Who are these families that we are talking about? I have no idea. Other than those two families I know, they came from Palau, and even though we say there are two families, their decedents have already multiplied. So it is certainly going to compound the problem if we don't address it. We need to try to get additional information on this one. Perhaps for a second reading, I am willing to revert back to 1950 but in the meantime I might be amenable to go along with just 1960 as recommended by the Committee.

Thank you, Mr. Chairman.

CHAIR IGITOL: I would like to recognize the floor leader at this time.

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

Once in a while I hear issues raised about the possibility of a conflict of interest.

I wish that that issue doesn't come up because as a responsible delegate we should have read, or should have known already, what is conflict of interest. So that we can expedite the discussions, I hear a lot of maybe good arguments, solid arguments, hearty arguments about 1950 to 1960. Are we going to change for one or two families? Are we going to change

for 100 families? We can continue to discuss this issue for two or three hours or even up to 12:00 midnight. Why don't you who want to put it back to 1950 initiate a motion so that we can take a vote because we are going to be arguing and arguing and if you move, at least after hearing enough argument about it, we can make a decision.

DELEGATE NOGIS: So moved.

DELEGATE T. ALDAN: If we don't, when we vote again on the subject, it is going to come up again. To adopt the report in the Committee of the Whole only, not to mention the first reading, not to mention the second reading.

I have only one question with regards to section 4 because I would like to state my conflict of interest on this. If my granddaughter gets married, my greatgranddaughter or greatgrandson will not be eligible under the language of one quarter. My granddaughter is already one quarter. So if she should get married to a nonCNMI descent he or she won't be eligible to own but I was being counseled by good Delegate Lillian Tenorio that she or he can inherit and he or she can lease for 55 years.

My question is: Why can't we just adopt or

what is the problem of just adopting the Covenant language of CNMI descent, period?

DELEGATE LILLIAN TENORIO: Is that to me?

DELEGATE T. ALDAN: Maybe Lillian can answer that.

DELEGATE LILLIAN TENORIO: I defer to Counsel Siemer.

MS. SIEMER: The purpose of the constitutional provision was to implement the Covenant and although there were many discussions about this at the time of the Covenant it was left to the Constitution to implement it. The 25 percent has been upheld in a very important court decision in the 9th Circuit. There always was a question as to how far afield you could go from 100 percent and still stay within the intent of the Covenant. So 25 percent is known to be okay. And the question then is, do you want to take any risks to go any further. The Committee's recommendation was to include some of the Chamorros who came later, 1950 to 1960, but not to decrease the 25 percent.

DELEGATE T. ALDAN: Thank you.

CHAIR IGITOL: Delegate Tenorio.

DELEGATE LIFOIFOI: Mr. Chairman.

CHAIR IGITOL: Delegate Lifoifoi.

DELEGATE LIFOIFOI: I move to adopt section 4, Persons of Northern Marianas descent, on the committee's report, 1960.

CHAIR IGITOL: 1960?

DELEGATE LIFOIFOI: '60.

(The motion was seconded).

CHAIR IGITOL: Moved and seconded. Any discussion on that motion? No discussion?

DELEGATE CAMACHO: Mr. Chairman.

Are we in a position to discuss the motion?

CHAIR IGITOL: Yes.

DELEGATE CAMACHO: Do you recognize me?

CHAIR IGITOL: With regard to the motion?

DELEGATE CAMACHO: Yes.

CHAIR IGITOL: Yes. Go ahead, proceed.

DELEGATE CAMACHO: Mr. Chairman, I asked whether we know the exact effect of this provision of changing it from the '50s to the '60s and nobody answered my questions. There has been comments that it involved initially the Aldan family and then there is comment now that it is Dr. Chong -- and who is the other one?

DELEGATE T. ALDAN: Bishop Camacho.

DELEGATE CAMACHO: Bishop Camacho.

Both of them are very important people but I

really did not know exactly whether these are all or for that matter, is it true that they came to the Northern Marianas between or after 1960? The Camacho family has been in there for years, for centuries and I know that the Bishop's family has too. So I can't understand why Bishop Camacho's name will be mentioned, and that is why I am asking first of all, before this date of '60 versus '50 is finally voted on, if we can know exactly who are these people and what effect would it have. I am not asking for something impossible, just clarification and information so that we can intelligently make a decision. I do not believe that we should try through emotion or through selfish interest or through fear, try and do things that we will later on regret. So, please, can we get that information in the hands of the delegates so that we can make an intelligent decision. I for one do not know and I don't know whether anybody else would like to stand up here and say these are the people involved; this is when they came over and perhaps get the legal counsel to say this will be the effect if the date is transferred from 1950 to 1960. Only then will we be able to know completely what is at stake here.

Thank you, Mr. Chairman.

CHAIR IGITOL: Before we take on a motion, Delegate Villagomez is it relative to the motion?

DELEGATE VILLAGOMEZ: Yes.

CHAIR IGITOL: Okay.

DELEGATE VILLAGOMEZ: I would like to request Mr. Chairman that you take a roll call.

CHAIR IGITOL: Any other question on the motion? Okay.

The motion is to accept the 1960 year under section 4. All those in favor say "Aye."

DELEGATE V. ALDAN: Wait, Mr. Chairman.

CHAIR IGITOL: Yes.

DELEGATE V. ALDAN: It has been requested by a delegate that we take a roll call. This is very important. We are dealing with land, you know, and we are requesting information.

CHAIR IGITOL: It is only discussion and it is up to the chair to rule on that.

We can go back later if it is not.

DELEGATE V. ALDAN: Is there any harm in doing a roll call?

DELEGATE T. ALDAN: Time.

CHAIR IGITOL: It takes time.

DELEGATE VILLAGOMEZ: We did it before.

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

DELEGATE T. ALDAN: Show of hands.

CHAIR IGITOL: All those in favor raise your right hands, in favor of 1960.

All those opposed?

CHAIR IGITOL: Abstain?

CONVENTION CLERK: Mr. President, by showing of the hands we have 7 members voting yes; 11 members voting no; one member abstaining and we have six members who are absent.

CHAIR IGITOL: We have a quorum; so it is back to 1950. Passed.

Before we go on to section 5, I would like to allow Delegate Camacho to go to section 3.

DELEGATE T. ALDAN: Three minutes break.

CHAIR IGITOL: Okay you get five.

(Recess taken from 3:15 p.m. to 3:35 p.m.)

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

At this time as I promised we will revisit section 3, but, again, try to limit discussion.

Thank you.

Delegate Camacho, please.

DELEGATE CAMACHO: Thank you, Mr. Chairman. I want to apologize for my inability to catch up with the fast pace on the issue of Article 12, an important, very very important article. If my wife was given a choice between Article 12 and me she would probably choose Article 12, Mr. Chairman.

DELEGATE J. TENORIO: Shall we take a vote?

DELEGATE CAMACHO: My comment has to do with related obligation. The idea was good. The problem I have indicated in the Committee meeting that it has to be expanded and defined what "related obligation" means.

I hope that if it is not in the Constitution, at least it should be in the legislative language, so there is no question later on. And the idea basically is to minimize the experts making their own interpretation to suit their own purposes by making it clear and complete, and therefore I would like to ask, does the clause apply to both purchase transactions and to lease transaction? May I please hear from our legal counsel if she has any comment.

MS. SIEMER: Certainly. The purpose of this addition to section 3 is to make clear that a person who gets a lease who is not of Northern Marianas

descent gets 55 years and that's all they get; no more no how, no way. Fifty-five years is a long time. It is fair for any business purpose. This is an effort to cut off in the future any new ideas that anyone might have with respect to how to get beyond 55 years. As you know, it is our view that all of the existing efforts to get beyond 55 years are unconstitutional. This effort is to reach any new ingenious ideas that any lawyers might come up with, with the idea that the Constitution will last for a very long time. I am confident I can satisfy you in the legislative history with a very clear explanation of how this will work.

DELEGATE CAMACHO: I assume you are saying it applies to both purchase and lease transactions.

MS. SIEMER: Well, if you read the language, it is a definition of what is a permanent and long-term interest so that any leasehold interest that is more than 55 years, including any renewal rights and related obligations, qualifies as a permanent and long-term interest in real property and that means that it cannot go to anyone who is not of Northern Marianas descent.

DELEGATE CAMACHO: Please, does it apply to both lease or purchase transaction?

MS. SIEMER: It applies just as I explained.

DELEGATE CAMACHO: Both?

MS. SIEMER: Just as I explained. If there is something that tries to get beyond 55 years, it is a long-term interest and it cannot be given to anyone who is not of Northern Marianas descent.

DELEGATE CAMACHO: It is not clear to me. I am sorry. But I will, I guess, go back at a later date maybe and sit down with you and see if you could explain it to me.

Thank you, Mr. Chairman, on Article 3 for now.

CHAIR IGITOL: Article 3 or section 3?

DELEGATE V. ALDAN: Point of clarification from counsel. Deanne, when you say "related obligation," does it encompass the proposal by Delegate Hocog who isn't here that there shouldn't be any buy-back provisions in that related obligation so the land goes back to the original owner?

MS. SIEMER: In 55 years, that's right. You can't get beyond 55 years; not only that you can't get beyond 55 years and you can't impose any obligations on the landowner that would force the landowner to go beyond 55 years. The landowner has to be absolutely free at the end of the term, the grandchildren of the original

owner, to do what they want with the land.

DELEGATE V. ALDAN: Thank you.

If there is no more discussion we will move to section 5, Corporations.

Any question or comment on this section?

None?

We go to section 6, Enforcement. Comments?

Delegate Sirok.

DELEGATE SIROK: Thank you, Mr. Chairman. I would like to ask legal counsel, Deanne, I am still confused and tangled up with the word --

CHAIR IGITOL: Excuse me are you still on section 6?

DELEGATE SIROK: Yes. It says violation of section 1 shall be voidable.

I want to know exactly the big difference between voidable and void ab initio.

MS. SIEMER: Sure. Maybe I could defer to Justice Dela Cruz who has actually had to do this while sitting on the bench, if he wouldn't mind.

FORMER JUSTICE DELA CRUZ: I wasn't expecting this. There is, of course, a difference between voidable and void ab initio. The expression void ab initio as most of us know, means that it is void

from the beginning. Any transaction in between the original transaction and the date of the challenge of that transaction, anything that goes in between, they fall aside; they fall apart and the original transaction is determined assuming it violates Article 12 to be void as if it never existed.

I wasn't a part of this Committee, but I will try. The regular definition of voidable is something that could be made void and this presumes that the court will look at the facts and make a determination as to whether there has been a violation of Article 12 and if there is a violation of Article 12 then the next step for the court is to make a determination whether to void the entire thing completely or fashion a remedy for that particular situation that would accomplish the purpose of Article 12. It gives the court some kind of flexibility, some flexibility of sorts to be able to fashion a remedy with respect to the parties involved and it doesn't, for example, with respect to, as I understand -- correct me if I am wrong if this is not what the Committee discussed -- but for purposes of bona fide purchasers for value without notice, for example, in between the original transaction and the subsequent transaction that is being challenged if

there are people caught in between, the court will have to figure out those transactions that are in the middle to make a determination whether those transactions should also be made void. The court would be presumably granted some kind of flexibility to make a determination whether to allow transactions in between that ordinarily would be okay under Article 12 but for the initial transaction, and when that happens with this type of language it gives the court this kind of flexibility to make a determination.

Deanne, is that basically the discussion of the Committee?

MS. SIEMER: That is.

FORMER JUSTICE DELA CRUZ: Because that is my understanding. The term "voidable" gives the court the power to fashion a remedy, to make a determination whether to void the entire transaction or allow certain transactions that may have occurred between the original and the date of the challenge to stand.

I guess by having more questions we could try to answer this.

PRESIDENT GUERRERO: Privilege, Mr. Chairman.

CHAIR IGITOL: State your privilege, Mr. President.

PRESIDENT GUERRERO: Perhaps the Chief Justice can

speak in the local vernacular so everyone understands in Chamorro what is voidable and void ab initio.

(Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: I am going to try.

(Statements made in Chamorro).

It is really a policy judgment that has to be made.

DELEGATE MANGLONA: I want to ask a question.

CHAIR IGITOL: Yes.

DELEGATE MANGLONA: (Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: This is a policy decision. As an attorney I don't think I have any business telling the convention delegates what to do.

(Statements made in Chamorro).

As a previous member of the Supreme Court and Former Chief Justice, and because I have ruled in a lot of decisions, I would prefer that I stay out of making any suggestion as to which one these Convention delegates should act on or not act on. And the reason for that as a former judge I carry and I think I still do carry some weight and I don't want to influence how you people think as members of this Convention. I think it is best that you think because it is a very difficult decision. You are making a change that is

quite different from the present language and if I were to give you my thoughts and what I would prefer, it might persuade you to act differently. I don't know whether that is good or bad but I would prefer personally to leave the Convention delegates to make their decision on their own. Then I wouldn't be siding with any side of the Convention because the job of the member of the legal team is to advise the entire Convention delegates to the best of their ability and then they make their decision as to what they should or should not do.

CHAIR IGITOL: Are you done, Delegate Manglona?

There are several delegates that raised their hands. I will go Delegate Gonzales, Delegate Aldan, Delegate Villagomez, Delegate Camacho.

DELEGATE GONZALES: (Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: Then the entire transaction is void from the beginning completely and the court cannot do anything about that. Once it makes a determination that it violates Article 12 the court has no other authority except to declare that void ab initio and where it falls, sometimes it hurts people depending on who is involved, and that is the area that I think this Committee is, at least the Committee on

Land and Personal Rights is, trying to address and, of course, the convention, to make that recommendation whether to go with the recommendation on Land and Personal Rights.

DELEGATE GONZALES: (Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: A lot of these words are general because the reason as Deanne had earlier noted they have to be general so it would give the court the power to address specific situations as they come along in life. We cannot predict specifically or state specifically a specific factual situation in the Constitution and therefore the Constitution is drafted in general language. The policy question, the policy question is really the important thing. What is facing the Convention is whether to loosen up the restriction of Article 12 or not to loosen it and that is a policy question the Convention has to address. Thank you, very much.

CHAIR IGITOL: Thank you, Justice Dela Cruz.

CHAIR IGITOL: Delegate Ben Aldan.

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

(Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: (Statements made in Chamorro).

DELEGATE V. ALDAN: We have section 5 describing when a corporation is considered Northern Marianas descent and I think in 1985 they made it more stringent to 100 percent. If you make it voidable, there is a big chance that a sham corporation may propagate before the court actually knows that it is a sham but because of the voidable, it comes in and says, we will protect this person of Northern Marianas descent and kill the corporation. We are really creating another problem if we go to voidable. That is how I interpret it; that is my interpretation.

MS. SIEMER: I think not. Your concern is that if you create a voidable standard now that sham corporations that have existed in the past will be revived somehow?

DELEGATE V. ALDAN: Not revived but more in number.

DELEGATE LILLIAN TENORIO: Proliferate.

DELEGATE V. ALDAN: Because the court will be there trying to figure out whether this corporation that started this transaction was actually legitimate or a sham.

MS. SIEMER: The court has to figure that out now.

DELEGATE V. ALDAN: Right.

MS. SIEMER: And the same questions as to whether the corporation complies with Article 12 exist regardless of what standard you have in the remedy.

DELEGATE V. ALDAN: No, but -- excuse me, Deanne.

MS. SIEMER: Go ahead.

DELEGATE V. ALDAN: If the corporation is a sham corporation, it will know that the transaction will go through because there is Northern Marianas descent at the end. We can always create an illegal sham corporation to form this transaction.

MS. SIEMER: No, I don't think so. The question about the nature of the corporation is determined from the directors and the shareholders.

When you say sham corporation I assume what you mean a corporation that does not comply with Article 12.

DELEGATE V. ALDAN: Right, right.

MS. SIEMER: That is not necessarily a sham. It is just a corporation that does not comply with Article 12. There are lots of those for lots of different purposes other than owning land. The only corporation that has to qualify under Article 12 is the one that wants to own land. All other corporations can be incorporated any way they want and do business any way

they want. All you are talking about is a corporation that isn't qualified under Article 12, right?

DELEGATE V. ALDAN: Right. The reason why I raise that is because we are sort of reversing that percentage back to 1976 when it first started and in 1985 they put that provision to actually eliminate that kind of loophole, so when we create this "voidable" we are actually, you know, ballooning that loophole more. That is how I see it.

MS. SIEMER: No, the use of the voidable standard doesn't balloon any loop holes.

FORMER JUSTICE DELA CRUZ: The voidable thing is in the enforcement and that is where the court comes in. The declaration is made in court whether to void or not to void and the extent of what to say and what not to say. The fashioning of the remedy is given to the court. In other words, with voidable enforcement power on the part of the court rather than the void ab initio, the court is given that flexibility to fashion, even including to void the particular transaction.

DELEGATE V. ALDAN: Precisely, and you see if the court comes in, right, the court makes a judgment -- I mean is part of the enforcement process, right? I mean

they are the ones that make the decision. So there will be a time span for this quote-unquote sham corporation to propagate and they know it doesn't really matter how they propagate because in the end if they do sell to it a Northern Marianas descent they are not penalized by it because they will be void by the court. But in fairness the court says because the transaction went to a Northern Marianas descent, it is fair. Do you see my point?

FORMER JUSTICE DELA CRUZ: I am not exactly sure.

MS. SIEMER: Let me give an example, Dr. Aldan, and maybe I can crystallize your point. Let's suppose there is a Northern Marianas descent corporation that is qualified because 100 percent of the directors are of Northern Marianas descent, and let's assume that the directors do business and everyone is happy, and then one day someone at a family gathering says, "You know when Mom came over in 1952," and one of the directors says, "What? 1952? You mean I am not a person of Northern Marianas descent? I always thought I was. You told me Mom came in 1948 and I am a member of the board of directors of this corporation. Oh, my God. Now we don't have 100 percent because we know Mom came in 1952."

So now what is going to happen if this is challenged and it goes to the court? Under a voidable standard the court can say: You thought until you went to the family picnic you were a person of Northern Marianas descent, but because Mom didn't get here until 1952 you are nothing; you are not anything. You are not 1 percent Northern Marianas descent. You are not qualified to do anything with respect to this. That is the effect of the 1950 rule.

So now let's say the corporation is disqualified because you always thought you were of Northern Marianas descent, but now you are not, the corporation is disqualified. Is it fair to go back and say that everything that corporation did, selling to Delegate Tenorio, selling to Delegate Manglona, selling to Delegate Camacho, everything that corporation did should be undone? Under a voidable standard the court goes back to see: Did you really think you were of Northern Marianas descent when you took that corporate job? Did you really believe it? Did you really have basis to believe it? If you were acting in entirely good faith -- you really thought Mom got here in 1948, because that is what you have always been told, and you thought you were of Northern Marianas descent, is it

really fair to undo all those transactions? What Justice Dela Cruz is explaining is that the court would have the flexibility to look at those circumstances and decide what is fair under the individual circumstances on a case-by-case basis. That can happen. People don't actually know when people got here.

DELEGATE V. ALDAN: So the same argument would be on the 1960 and 1950, if they came in 1965 --

MS. SIEMER: That's true.

DELEGATE V. ALDAN: -- It doesn't matter whether we put there 1948 or 1950 if the court decides that that person is of Northern Marianas descent that transaction will be honored, right?

MS. SIEMER: That's right. The records are much better after 1960. That is one of the reasons that 1960 is a little bit easier than 1950.

But that is the kind of flexibility you would be giving the court when a person made an honest mistake and never intended to violate Article 12 at all, the court would have the flexibility to adjust the remedy because that person was honest in what he or she did in the first place.

DELEGATE V. ALDAN: The problem is that we don't have an instrument other than, you know, the court to

evaluate honesty. We don't really know whether the person is lying. I wish we had a direct line with the person above. We can call and say: Hey, is this guy pulling my leg?

MS. SIEMER: Courts do that every day. Someone says, "I am not guilty." And a court has to decide is that person being truthful or not.

CHAIR IGITOL: I have two more delegates to recognize, Delegate Villagomez and then Delegate Camacho.

DELEGATE VILLAGOMEZ: Yes. I am going to continue asking for your help.

Section 6 Enforcement, the last sentence, I am a little confused. "Any action challenging a transaction shall be filed within six years of the transaction."

If this article 12 is ratified, say, February '96, as I read this, a transaction that happened ten years ago will have no chance of being filed, something like that, or 20 years ago or 15?

MS. SIEMER: Actually, as Delegate Tenorio said in her explanation, the Committee is still considering whether there should be a grace period. When the current statute was enacted, a grace period of six

months was given. So the answer to your question is that under the current statute, yes, all of those have been cut off because the six years have passed, and now anything that was six years after the transaction is cut off.

The question is, should the Constitution provide another grace period, so that with the publicity about the Constitution and about the ratification of the Constitution, people will be put on notice with respect to this and should there be a second chance.

The legislature spent a lot of time talking about this and considering it and they decided to give a six-month window and they did that and so everyone has had that kind of notice. That system that you described in which claims from ten years ago are being cut off is already in effect.

DELEGATE VILLAGOMEZ: So when was the effective date?

MS. SIEMER: The statute was passed in --

DELEGATE LILLIAN TENORIO: '93.

MS. SIEMER: And the six-month period was when?

DELEGATE LILLIAN TENORIO: Sometime early 1994 probably.

DELEGATE VILLAGOMEZ: So this is for future transactions.

CHAIR IGITOL: Okay. Delegate Camacho, please.

DELEGATE CAMACHO: Thank you, Mr. Chairman.

(Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: (Statements made in Chamorro).

That was basically to sever the whole transaction, and that was a policy made by the 1976 Constitutional Convention, First Constitutional Convention.

(Statements made in Chamorro).

The question addressed is basically whether to make a change to that language in terms of the enforcement of a transaction that violates Article 12. The change that is made would be to allow for flexibility as to the type of remedy. The court would have in its arsenal in terms of developing an enforcement mechanism with a particular transaction that has been determined by the court.

(Statements made in Chamorro).

If there has been a violation of Article 12 under the present Constitution (Statements made in Chamorro) ...the court declares it void ab initio.

The change that has been suggested by the Committee is to allow the court to make that determination whether to void everything completely or void certain parts and allow certain parts.

(Statements made in Chamorro) The flexibility to deal with the particular case that is before it to achieve fairness as the court sees it.

And the question that the Convention is being asked to address with this change is really a policy question whether to loosen that restrictive nature of Article 12, void ab initio, and make it more loose or not and that is before the Convention. It is really tough.

DELEGATE CAMACHO: (Statements made in Chamorro).

FORMER JUSTICE DELA CRUZ: (Statements made in Chamorro).

Whether the change would effectuate a violations of Article 12 or diminish violations Article 12 (Statements made in Chamorro) is not something seen at the moment. I don't know.

(Statements made in Chamorro).

Whether it would be greater or less because of this change, I cannot anticipate that. It would be unfair for me to venture to predict the extent of the

change to be made assuming the "voidable" word is adopted by the Convention or whether it would be less, less of a change.

DELEGATE CAMACHO: Mr. Chairman, just for the information on the legal counsel, I was asking whether the changes from "void ab initio" to "voidable" as compared to the proposed 1995 Third Constitutional Convention and that of the 1976, would it make significant changes between the two constitutional amendments between 1976 Article 12 versus the 1995 Article 12 by changing "void ab initio" to "voidable"?

Would you like to comment?

MS. SIEMER: I think the answer that Justice Dela Cruz gave is the right one. The void ab initio standard may encourage people to take chances and put unenforceable things in leases because it is such a harsh standard that there is an increasing chance the courts will not enforce it. When you press courts to do things that they think are not fair they search for ways to get around it. One of the chief dangers to the continued vitality of Article 12 is that the courts will not enforce it because they do not think that void ab initio is fair.

As you get farther and farther away from the

original transaction and you get more and more people involved who are innocent, honest purchasers who spent their good money for something, courts are unwilling to take that away from them. So from a commercial point of view I think commercial people find less of a risk with void ab initio because they can count on the court's unwillingness to enforce it. I think with a voidable standard the courts will use their powers to the maximum to ensure that the result is fair, and that means that anyone who violates Article 12 risks losing everything if they do it intentionally. A voidable standard gets at the people who do it intentionally and imposes a very harsh standard on them but it does not enforce a harsh standard for people who make honest mistakes or people that have good intentions of abiding by Article 12.

DELEGATE CAMACHO: Mr. Chairman, I must be honest, my question is simply to know whether there would be significant changes and I haven't gotten the answer. Maybe I should get together with Deanne again to see and find out whether there is actually significant changes that will impact if there is a change between void ab initio and voidable. So I am going to waive that and continue, Mr. Chairman, if you will allow me.

CHAIR IGITOL: I think we got a signal from the reporter we need a break. So let's break for 5 minutes.

(The motion was seconded)

(Recess taken from 4:20 p.m. to 4:41 p.m.)

///

///

///

CHAIR IGITOL: We're back in session again.

Floor Leader.

DELEGATE TOMAS B. ALDAN: I move to adopt Article 12, Restrictions on the Alienation.

(The motion was seconded.)

CHAIR IGITOL: Moved and seconded.

Any discussion?

All in favor, say "Aye."

Opposed?

"Ayes" have it.

Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: I move that we table discussion on Article 6 until the next plenary session.

(The motion was seconded.)

CHAIR IGITOL: There is a motion to postpone Article 6 until Monday, or at least the next session.

Any discussion?

All in favor, say "Aye."

Opposed?

Motion carried.

Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: I move that we rise back to the plenary session.

(The motion was seconded.)

CHAIR IGITOL: Recess for one minute.

All in favor to rise to the plenary session, say
"Aye."

Opposed?

(The motion carried.)

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

I call on Delegate Igitol to report on the
deliberations of the Committee of the Whole.

CHAIR IGITOL: Thank you, Mr. President.

The Committee of the Whole discussed extensively
Article 11 and Article 12.

Article 11 was passed after a lengthy discussion.
Article 12 was also passed after an extensive discussion with an
amendment made on section 2, an amendment made by
Delegate Seman, and also section 4 also amended to change the
date, the year of 1950 to 1960 -- I'm sorry -- status quo back
to 1950. These were passed as amended.

Article 6 was postponed until next plenary session.

PRESIDENT GUERRERO: Thank you, Delegate Igitol.

Any other reports?

If not, Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: Move to calendar in the plenary
session Article 11 for passage on first reading.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to

calendar Article 11.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: I move to adopt Article 11 on Public Lands on first reading.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved to pass Article 11, which is Public Land, on first reading.

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, Esther S. Fleming, John
Oliver Gonzales, Herman T. Guerrero, David L.
Igitol, Jose R. Lifoifoi, David Q. Maratita,
Felix R. Nogis, Justo Quitugua, Joey P.
San Nicolas, Bernadita T. Seman, Marylou Ada
Sirok, Helen Tario-Atalig, Juan S. Tenorio,
Lillian A. Tenorio, Joaquin P. Villagomez.

(19 votes)

NO: (None.)

ABSTAIN: Delegate Carlos Camacho.

(1 vote)

CONVENTION CLERK: Mr. President, we have 19 voting yes, one abstention, and seven members absent.

PRESIDENT GUERRERO: Article 11 passes on first reading.
Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: I move to calendar Article 12 for passage on first reading.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to calendar Article 12 on first reading.

Discussion?

Yes, Delegate Villagomez.

DELEGATE VILLAGOMEZ: Mr. President, I would like to ask that the mover withdraw his motion and we refer this back to the Committee.

Mr. Chairman, this is one of the most important articles. I feel that there should be more deliberation at the Committee level rather than passing it now.

The COP rule is that if you are to submit a Delegate amendment requires you filing it now, or the next session, and it must appear at least two sessions before it can even be considered at the plenary level.

The Committee has allowed the subcommittee on public land to do studies. I don't see why not allow further

discussion on this. This involves legal language that I and many others have expressed are difficult to understand.

I would like to ask that Delegate Aldan withdraw this and we refer this back.

PRESIDENT GUERRERO: Delegate Aldan, do you have a reply to that?

DELEGATE TOMAS B. ALDAN: Yes.

If we pass on first reading, it goes back to the Committee for further review. Basically, the Committee members can sit and discuss, go through the whole sections again at the Committee level.

I'm not a member of the Committee. I don't know what else could be discussed to change the position of the Committee.

I would like to see whether or not the members prefer to pass it on first reading and if this is rejected, it goes back to the Committee.

PRESIDENT GUERRERO: Delegate Camacho.

DELEGATE CAMACHO: Mr. President, we have been discussing Article 12 for the last 3-1/2 hours. A lot of issues, a lot of new points have been brought up to the attention of not only the Delegates, but also the Convention itself.

There is also the question that there are some documents that are not being made available to the Committee or to the Delegates regarding responses by the various attorneys

for or against that the Delegates should have an opportunity to look at.

Admittedly, I'm aware, first of all that, that we're tired and want to go home.

Second, that we have another crack at this for second reading and, therefore, it can be brought up.

This coming week is going to be very busy. You mentioned yourself that there will be plenary sessions every day and in between there will be Committee meetings.

Is it too much to ask, since initially this matter was brought up for discussion purposes only if the Delegates have an extra day, tomorrow, so they can under the bright sun in Managaha, or wherever you are going to be, could reflect on what has been happening so they will know?

Is it too much to ask the Delegates for this rather than railroading this thing on first reading with the impression that it will still go to second reading and there will be time?

I urge you, Delegates. This is important. It's so important. Many people are affected.

Please delay the first reading until at least Monday.

Thank you, Mr. President.

PRESIDENT GUERRERO: Let me recognize the vice chair before I recognize Delegate Nogis.

DELEGATE ALDAN-PIERCE: Thank you, Mr. Chairman.

Mr. Chairman, we have had extensive public hearings on this particular article. Our legal counsel has gone out and she has met for many hours with people on both sides of the fence regarding Article 12. We have not heard any new information, and I don't think we will.

DELEGATE CAMACHO: Privilege. Privilege, Mr. President.

PRESIDENT GUERRERO: State your privilege.

DELEGATE CAMACHO: I want to say that I had conversations with the legal counsel.

I was told that there are documents that are available that should, if not made available to every Delegate, but to me because of my questions. It has not been made available, but there is new information that is available.

Please don't say that there is nothing new since yesterday.

MS. SIEMER: Point of information, Mr. President.

There are no new documents. These documents have always been available to any Delegates that want to see them. They have been reflected in the outline that was considered by the Committee. They have all been discussed point-by-point in terms of that outline. They have all been presented to the Committee fairly and directly.

There is no new information and there are no documents that have been withheld in any way whatsoever.

DELEGATE CAMACHO: Mr. President, privilege again.

PRESIDENT GUERRERO: You are debating, Delegate Camacho. That is not a privilege.

What is it that you want to raise?

DELEGATE CAMACHO: Basically, what I said earlier, legal people, as opposed to being neutral, not to keep documents and give interpretation of their own in Committee reports.

We want to see these documents, whether it is true that there is nothing new and that everything that has been submitted is already in the Journals or not.

We ask this as Delegates. We are not the employee of the legal counsel. We are the employer of the legal counsel. We want these documents so that we can review it.

Thank you, Mr. President.

PRESIDENT GUERRERO: Can you confine, next time the "we" just to "I." You cannot speak for the others.

DELEGATE CAMACHO: I, Mr. President.

Thank you.

PRESIDENT GUERRERO: Yes, Delegate Nogis.

DELEGATE NOGIS: It seems to me, Mr. President, that scheduling Article 12 for the first reading does not in any way preclude any member from raising any concern prior to the second reading.

With that, I would like to end debate and move to vote.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to end debate.

Those in favor of the motion say "Aye."

Those opposed, say "Nay."

PRESIDENT GUERRERO: One more time.

Those in favor of the motion to end debate, please raise your hand.

Those opposed.

Those who move to end debate are the majority.

What was the count?

CONVENTION CLERK: Mr. President, we have 13 members voting yes to end debate, four members voting no.

PRESIDENT GUERRERO: We're back to the main motion.

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, David L. Igitol, Herman T. Guerrero, Jose R. Lifoifoi, David Q. Maratita, Felix R. Nogis, Justo Quitugua, Joey P. San Nicolas, Bernadita T. Seman, Marylou Ada Sirok, Helen Taro-Atalig, Juan S. Tenorio, Lillian A. Tenorio. (16 votes)

NO: Delegates Vicente S. Aldan, Carlos S. Camacho, John Oliver Gonzales,

Joaquin P. Villagomez. (4 votes)

ABSTAIN: (None.)

CONVENTION CLERK: Mr. President, we have 16 members voting yes, four members voting no, seven members absent.

PRESIDENT GUERRERO: Article 12 passes on first reading.
Mr. Floor Leader.

DELEGATE TOMAS B. ALDAN: Move to adjourn subject to the call of the Chair.

DELEGATE CAMACHO: Mr. President, privilege.

PRESIDENT GUERRERO: State your privilege.

DELEGATE CAMACHO: I want to make a statement.

DELEGATE TOMAS B. ALDAN: I think the motion to adjourn is not debatable.

PRESIDENT GUERRERO: Let me recognize the motion first. If it's voted down, you can have the floor.

DELEGATE CAMACHO: Mr. President, my understanding of the rule on privilege is that nothing can supersede privilege. You suspend everything for privilege whether it's adjournment, point of information, or anything.

PRESIDENT GUERRERO: That's your statement. Your question is not a privilege itself.

DELEGATE CAMACHO: What is it, then? I'm asking for privilege to make a statement.

PRESIDENT GUERRERO: It's a point of order if you are moving.

DELEGATE CAMACHO: Mr. President, you are trying to adjourn the meeting without us having an opportunity to say a few words.

PRESIDENT GUERRERO: I'm not trying to adjourn the meeting, Delegate Camacho.

There is a motion on the floor. I'm recognizing that motion.

DELEGATE CAMACHO: Over the privilege?

DELEGATE TOMAS B. ALDAN: Yes.

PRESIDENT GUERRERO: What you are raising is a point of order. It's not a point of privilege.

DELEGATE CAMACHO: A point of order will allow me to speak before you adjourn the meeting?

I want to ask that.

PRESIDENT GUERRERO: If you are in order, yes.

DELEGATE CAMACHO: Point of order, then, Mr. President.

Am I in order to make a statement?

DELEGATE TOMAS B. ALDAN: Mr. President.

PRESIDENT GUERRERO: Not necessarily. There is a motion. Unless you have a specific point of order on the order of business, then I need to rule on that.

DELEGATE CAMACHO: I wish to speak on Article 12, which is a subject of discussion for the last 3-1/2 to 4 hours, so it is relevant to the plenary session today.

PRESIDENT GUERRERO: I'm sorry, but I have to rule that I

have to recognize the motion.

You are basically inserting a statement, and the motion takes precedence.

DELEGATE CAMACHO: Can we hear from the legal counsel on the rules?

My understanding of privilege is that it is not all and everything will have to be suspended to accommodate the privilege.

MR. WILLENS: That is not correct, Delegate Camacho. Rule 42 discusses questions of privilege and it clearly indicates that what you have in mind is not a question of privilege, either a privilege of the convention or personal privilege.

The Chair has made a ruling that the motion to adjourn should be voted on without any further interruption or debate. That is provided in the Convention rules.

If the Chair so rules, you can obviously object to the ruling and there will be a vote. But I think the motion to adjourn takes precedence and should be voted on.

DELEGATE CAMACHO: Mr. President, I'm really disappointed.

PRESIDENT GUERRERO: Let's vote on the motion.

Those in favor of the motion to adjourn say "Aye."

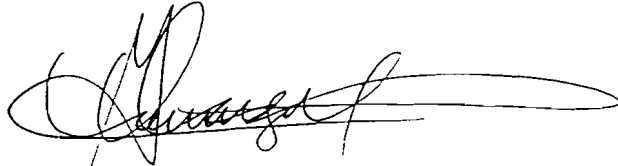
Those opposed, say "Nay."

Motion carried.

The session is adjourned.

(The Convention recessed at 5:02 P.M.)

Respectfully submitted,

A handwritten signature in black ink, appearing to be "C. J. ...", written over a horizontal line.

Convention Secretary