

July 25, 1995

## REPORT OF THE COMMITTEE ON JUDICIARY AND OTHER ELECTED OFFICES

### ARTICLE IV (JUDICIAL BRANCH), Second Reading

The Committee presents the following report to the delegates with respect to Article IV, Judicial Branch, on second reading.

Delegate Proposals: The Committee's revised Report No. 1 on Article IV was prepared on June 23, 1995. After that time, Delegate Proposals 515 and 526 were submitted. The Committee has considered each of these proposals.

Floor Discussion: The Committee of the Whole discussed revised Report No. 1 on July 6, 1995. At that time, one delegate expressed concern about the provision that prevents decreases in judicial salaries during a term of office. The Committee discussed this concern in connection with Delegate Amendment 3. A delegate expressed concern about the submission of the Judicial Branch budget directly to the Legislature, and whether it might require the attention of the Executive Branch in the process of determining the availability of funds.

Delegate Amendments: The Committee received Delegate Amendment No. 2, which was discussed in the Committee with the proposer present, and the proposer kindly agreed to withdraw this amendment.

The Committee received Delegate Amendment No. 3, which covers the compensation of justices and judges. The proposer is concerned that if the Salary Commission recommends lower salaries across the board in the Executive, Legislative, and Judicial Branches, this recommendation could not be implemented because of the current constitutional provision that prohibits decreasing a judge's salary during a term of office. The prohibition on decreases of judicial salaries protects the independence of the Judicial Branch. If a judge makes a decision that adversely affects the Legislature, the Legislature might retaliate by declining to approve appropriations for salaries. The provision against decreasing judicial salaries prevents such retaliation. The Committee decided that in the new system in which judges are subject to approval of the voters, it would be sufficient to have the Salary Commission request that the judges take a voluntary decrease because, for example in times of extreme budgetary emergency when all other government employees incur a steep decrease in salary, this would not jeopardize the independence of the judiciary. Judges who refused to do so would have that counted as a part of their record when they next were on the ballot for approval by the voters. The Committee will make this a part of the legislative history with respect to Article 4.

The Committee received Delegate Amendment No. 11, which covers arbitration of small cases. The proposed amendment suggests a mandatory system. The Committee proposes a change in the language of Section 9(c) to cover this subject, but proposes to leave the rules on the arbitration system to the discretion of the court.

Section 9(c) would read:


(c) The supreme court has administrative and policy authority with respect to the judicial branch, and shall promulgate rules of the courts with respect to appellate procedure, civil and criminal procedure, assignment of judges to Rota and Tinian for effective judicial service for the people of those islands, attorney admission and discipline, governance of the bar, court fees, judicial and professional ethics, duties and responsibilities of the presiding judge and court officials, arbitration of smaller matters, establishment of special sections or divisions for particular subject matters, and all other matters pertaining to administration of the judicial branch.

The court is in the best position to decide what the dollar amount should be that defines a small matter subject to arbitration and under what circumstances parties would be required to arbitrate in order to clear the court's docket.

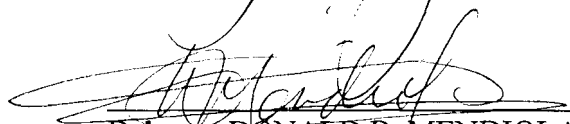
Committee changes: The Committee does not recommend any further changes in Article 4.

In summary, the Committee recommends no changes to Sections 1, 2, 3, 4, 5, 6, 7, 8, 10, and 11. The Committee recommends the change set out above with respect to Section 9(c).

Respectfully submitted,



Delegate HENRY U. HOFSCHEIDER, Chair



Delegate DONALD B. MENDIOLA, Vice Chair



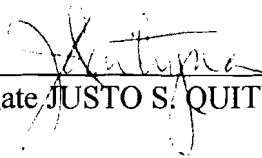
Delegate ESTHER S. FLEMING

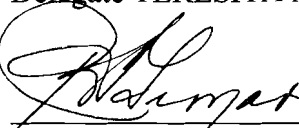


Delegate JAMES M. MENDIOLA



Delegate FELIX R. NOGIS

  
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Delegate JUSTO S. QUITUGUA

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Delegate TERESITA A. SANTOS  
  
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Delegate BERNADITA T. SEMAN

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Delegate MARIANO TAITANO