

THIRD NORTHERN
MARIANA ISLANDS
CONSTITUTIONAL CONVENTION

DAILY JOURNAL

FIFTY-FIRST DAY

Tuesday, July 25, 1995

PRESIDENT GUERRERO: The 51st day of the Third Northern Marianas Constitutional Convention is hereby called to order.

Please stand and offer our silent thoughts to our Delegate Taitano, who is still in the hospital, and also Joey San Nicolas' mother is also sick, so can we offer a small prayer.

(Moment of silence.)

PRESIDENT GUERRERO: Thank you.

On preliminary matters, we have two long items on the agenda today, and one shorter one. I expect that we will finish by about 4:30 this afternoon, or sooner.

Con-Con clerk, roll call, please.

(The Convention Clerk called the roll.)

CONVENTION CLERK: Mr. President, we have 26 members present and one absent.

PRESIDENT GUERRERO: Thank you.

Delegate Taitano is excused. He's still sick.

We'll welcome back our Floor Leader to the Convention.

DELEGATE HOCOG: Thank you, Mr. President.

PRESIDENT GUERRERO: Mr. Floor Leader.

DELEGATE HOCOG: Yes.

I would like to move to adopt the Daily Journals from July 23rd and 24th.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to adopt the Daily Journals from July 23rd and 24th.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

DELEGATE HOCOG: Mr. President, I also move to adopt the Summary Journal of July 24th.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to adopt the Summary Journal from July 24th.

Discussion?

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

Those opposed, say "Nay."

Motion carried.

We move to item 5 of our agenda, the order of business.

The Committee of Organization and Procedures does not have anything at this time.

I call on the Chair on Land and Personal Rights, Delegate Jose Lifoifoi.

DELEGATE LIFOIFOI: Thank you, Mr. President.

Yesterday, the Committee on Land and Personal Rights completed its review of Article 13 on eminent domain and Article 16 for corporations for a second reading.

Our reports are in the Daily Journal for yesterday, and we will be ready to report when those articles come up on the schedule.

Today we completed our review of Article 14 on natural resources. Our report will be in today's Daily Journal, and will be ready to report when we reach that article on our schedule.

We will go back to Article 11 next. We expect to be ready to report on Article 12 shortly.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Lifoifoi.

I now call the Chair on Legislative Branch and Public Finance, Delegate Tomas Aldan.

DELEGATE TOMAS B. ALDAN: Mr. President, since the last plenary session your Committee on Legislative Branch and Public Finance has not met; therefore, we will therefore not give a report.

However, we have Article 2 calendared for today. I hope that it receives the support of the members for its second

and final reading.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Aldan.

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

DELEGATE NOGIS: Thank you, Mr. President.

Your Committee on Executive and Local Government is continuing its deliberation on Article 3, specifically, section 17. At the same time, we're continuing our efforts with regard to Article 6.

Furthermore, the Committee recommends passage of Article 3 for second reading.

PRESIDENT GUERRERO: Thank you, Delegate Nogis.

I call now on Henry Hofschneider, the Chair on Judiciary and Other Elected Offices.

DELEGATE HOFSCHEIDER: Thank you, Mr. President.

Mr. President, your Committee on Judiciary and Other Elected Offices has completed its review of former Article 20 on Civil Service, which is now Article 3, section 16.

We are ready to report on this article for second reading.

We have also reviewed Article 15 on education, which will be Article 3, section 13 on education.

We have reviewed some amendments. We hope that some of the Delegates have registered proposed amendments today,

and if permitted by this body, it could be calendared for tomorrow. It all depends on the outcome of the session today.

We also have distributed copies of these reports for consideration, also.

This also includes Article 5, which covers the Washington Rep. We would like to include that in our calendar for today, if possible. They're in today's Daily Journal.

Mr. President, the review of Article 4, which covers the Judicial Branch, we are ready to have that calendared today. The reports have been distributed to the Delegates.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Hofschneider.

We move to item 6, introduction of Delegate amendments.

Delegate Gonzales.

DELEGATE GONZALES: Thank you, Mr. President.

I would like to introduce two amendments, Amendment 31, with respect to Article 3, education; and, of course, Delegate Amendment 32, also with regard to education on transitional matters.

Thank you, Mr. President.

PRESIDENT GUERRERO: Any other Delegate amendments?

If none, I do have one. It's Delegate Amendment No. 33.

It is proposed that the article passed on first

reading be amended as follows:

"Article 3, section 19, Retirement System, to delete subsection (e)."

Thank you.

We move to motions and resolutions.

If none, unfinished business.

If not, special orders of the day.

Mr. Floor Leader.

DELEGATE HOCOG: Yes, Mr. President.

I would like to resolve now into the Committee of the Whole to consider discussion on Article 2, Legislative Branch for second reading, and Article 3, Executive Branch, for second reading.

PRESIDENT GUERRERO: And to include Article 15 on education?

DELEGATE HOCOG: And Article 15 on education and Article 20 on Civil Service.

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to resolve into the Committee of the Whole to entertain Article 2, Article 3, which includes former Article 15 on Education and former Article 20 on Civil Service.

Discussion?

DELEGATE HOFSCHEIDER: Mr. President, I would like to include Articles 4 and 5.

PRESIDENT GUERRERO: If there is no objection, so ordered.

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

Those opposed, say "Nay."

Motion carried.

At this time, the Chair appoints Delegate Joey San Nicolas to chair the Committee of the Whole.

Please come up.

(Applause.)

DELEGATE HOCOG: Mr. Chair, do you want to have a two-minute break to consult with counsel?

CHAIR SAN NICOLAS: Yes.

Two minute break, please.

(A recess was taken from 1:54 P.M. to 2:02 P.M.)

CHAIR SAN NICOLAS: I would like to call the Committee of the Whole to order.

As calendared for the Committee of the Whole, we have Article 2, Legislative Branch for second reading; Article 3, Executive Branch, second reading, including former Article 15, Education, and Article 20, Civil Service. And, if time allows, Articles 4 and 5.

I would like to now call on the Chair of the Legislative Branch, Tom Aldan, to give his report on the deliberations on the Committee and changes.

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

The Committee presents the following report to the Delegates with respect to Article 2, Legislative Branch, on second reading.

Delegate Proposals: The Committee Report No. 5 is dated July 10, 1995. Thereafter, Delegates Proposals 566, 575, 591, and 593 were introduced.

The Committee has considered each of these proposals. The Committee has considered Delegate Proposal No. 479 in preparing Report No. 5. That proposal was inadvertently omitted from the list attached to the Report.

The Committee of the Whole discussed Report No. 5 on July 11, 1995. One delegate suggested that the Lieutenant Governor should preside over the closing session of the Senate.

The Committee concluded that to respect the separation of powers, once the Senate elects a presiding officer, the Lieutenant Governor should not preside over any of its sessions.

The Committee received Delegate Amendment No. 1 proposing to amend Section 3 to reduce the term of office for a House member to two years. The Committee does not recommend this change.

The Committee has revisited this issue and concluded that the benefits of a four-year term outweigh the disadvantages noted by the proponents of the amendment.

A longer term will improve the political process.

It will provide more experienced legislators. It will reduce the amount of time that a member must direct towards reelection and thereby provide more time for the member's legislative duties. By reducing the number of elections, campaign and election costs will be lower.

The Committee expects that the longer term may also attract a larger pool of qualified candidates. The coordination of elections for the House and the Senate, as well as the Governor, every four years may also produce a more consistent electoral result that will help the Commonwealth government function more effectively than it has in the past.

The Committee received Delegate Amendment No. 13 proposing a seven-year "sunset" provision on all new entitlements and regulatory programs. The Committee does not recommend this change. Sunset provisions may be useful, but are best enacted by the legislature on a bill-by-bill basis.

The Committee received Delegate Amendment No. 21 which proposes Commonwealth-wide at-large elections for the Senate while keeping the requirement that two senators must be from each district. The Committee does not recommend this change, in part, because of concerns that it may not be consistent with the Covenant.

The Committee received Delegate Amendment No. 22 which proposes that any legislator convicted of a crime carrying a sentence of 30 days or more be automatically expelled.

The Committee recommends this change in Section 13(a). A legislator occupies a position of the highest public trust and should be held strictly accountable for criminal misconduct. So long as the conviction is not for a felony, the legislator is free to seek election to other public office.

The Committee received Delegate Amendment No. 23 which proposes that no legislator may have private employment. The Committee does not recommend this change. The committee earlier rejected proposals to convert to a part-time legislature concluding that the Commonwealth would be more effectively served by full-time legislators.

The Committee believes that full-time legislators should treat the office as a full-time position and should not be employed in the private sector at the same time.

However, the Committee is mindful that many legislators are employed in family businesses and concluded that the level of detail that an effective and fair prohibition would require did not belong in the Constitution. The Committee urges legislators to regard their offices as full-time employment.

The Committee received Delegate Amendment No. 28 which requires the Governor to transmit a vetoed bill to the legislature in five working days. The Committee recommends this change in Section 6(a). This will clarify when the 60 days given the Legislature to consider a vetoed bill begins to run.

The Committee recommends a change to Section 2(a) on the recommendation of the Committee of Executive Branch and Local Government. That Committee concluded that a fourth senatorial district should not be automatically created for the islands north of Saipan until they have 1,000 resident citizens, a number larger than presently required by the Constitution.

The Committee recognized that many persons in these islands may not be full-time residents either because of the nature of their work or because they maintain residences elsewhere.

Furthermore, the current requirement of 1,000 persons was selected at a time when it represented an intermediate figure between the populations of both Rota and Tinian.

The proposed requirement of 1,000 resident citizens is much closer to, but still below, the citizen population of Rota or Tinian.

The Committee recommends a change in Section 3(a) clarifying that the number of representatives may be decreased, as well as increased, pursuant to Section 4.

The Committee recommends changes in Section 5(a) which deals with the enactment of appropriation bills. These changes were originally considered for Article 10, Public Finance. The Committee concluded that these changes, which deal with appropriations, were more appropriately placed in

Article 2.

First, the Committee recommends that every expenditure of public funds be authorized in an appropriation bill.

Any bill that authorizes public spending for any purpose is an appropriation bill. The committee believes it is fiscally irresponsible for expenditures to be authorized by resolutions or other devices that do not contain the safeguards built into the appropriation process.

Second, the Committee believes that the legislature should not enact new or expand existing programs that require public money to be spent without appropriating the necessary funds.

The Committee is aware that the Legislature has enacted a workers' compensation program and a tax task force without funding them. This, unfortunately, creates the impression that the Legislature has responded to a public need when, in fact, the response has been an empty one. There is no good reason for such legislative irresponsibility, and the Committee recommends that this picture be stopped.

The Committee recommends a change to Section 5(c) requiring that bills be read on at least two separate session days.

Under this provision, neither House can suspend its rules to pass a bill on fewer than two readings on two separate

session days. This will insure that legislators and the public, where appropriate, have an opportunity to study and comment on the proposed law.

The Committee recommends the deletion of Section 6, Local Laws, on the recommendation of the Committee on Executive Branch and Local Government. That Committee will address this issue in its work on Articles 3 and 6.

The Committee considered a change to Section 6(a) on vetoes. The Committee is concerned that riders are being added to bills to circumvent the requirement in Section 5(a) that bills be confined to one subject.

The Committee disapproves of this practice since it tends to produce legislation which has not been subjected to all the constitutional safeguards designed to insure that legislation is carefully enacted.

For example, riders are often not submitted to public hearing. The Committee believes that the legislative process will function more effectively if the Legislature avoids the use of riders which are not on the same subject as the main bill.

The Committee also considered strengthening the Governor's power to veto such riders, but is satisfied that the Governor has this power under Section 6(a).

The Committee recommends an additional change to section 13(a). With a reduction in the size of each house, the

Committee concluded that it would be impractical to require a three-fourths vote to discipline members and recommends a two-thirds vote instead.

The Committee recommends the deletion of the directory language in the transitional section on the salaries of the majority and minority leaders. The Committee concluded that their salaries should be left to the Salary Advisory Commission.

The Committee recommends no changes to Sections 1,4, 8, 9, 10, 11, 12, 13, 15, 16, and 17 as passed on first reading.

The Committee recommends that changes to Sections 2, 3, 5 and to renumbered Sections 6 and 13 and to the transitional section. These changes are contained in the attached revised Article 2.

The Committee recommends its passage on second reading.

Thank you.

CHAIR SAN NICOLAS: Is there a motion -- Delegate Aldan.

DELEGATE VICENTE ALDAN: On Article 2, section 2(a), I think for consistency that should be 1,000 voters. I think that's what was voted last time, it should be 1,000 voters.

MR. WILLENS: Delegate Aldan, we tried to make it consistent by referring to United States citizens and not require the additional element of registration to vote.

Obviously, people who are going to vote are fewer in number than U.S. citizens. U.S. citizens would include adolescents and juniors who are not eligible to vote.

It's our recollection of the Committee's deliberations that figure was to refer to U.S. citizens.

CHAIR SAN NICOLAS: Any other questions?

Delegate Borja.

DELEGATE BORJA: Thank you, Mr. Chair.

In regard to section 3(c) the term of office of the representative shall be extended for four years.

Mr. Chair, I have made my viewpoint known to all the Delegates both here on the Committee level and Convention.

I'm not entirely convinced that increasing the House term to four years is the answer to having effective legislators.

I'm not in agreement that the four-year term will improve the political process or provide for more experienced legislators as reported by the Committee, nor will it necessarily attract a larger pool of qualified candidates.

I think the general public is satisfied with the present two-year term since it gives them the opportunity to exercise their right to vote every two years, either to retain an effective legislator, or to replace an ineffective legislator.

My fellow Delegates, I urge you to reconsider your

decision on the four-year term.

With that, Mr. Chair, I move that the term of office for representative be two years.

(The motion was seconded.)

CHAIR SAN NICOLAS: It has been moved and seconded to that the term of office be two years rather than four.

Discussion?

Yes, Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chair.

I don't know whether I would be out of order, but if this four years stays as is, I would like to take the opportunity to have the Convention consider my Delegate Proposal No. 7, Delegate Amendment 7 on recall, perhaps, at the end of this to insure an easier mechanism for recalling elected officials.

CHAIR SAN NICOLAS: Delegate Tom Aldan.

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

The issue of the House term has continually been challenged since the beginning up to this time. We have gone through this about four times already, and the result is always the same.

For the last time, I do hope it remains as originally approved by the Committee.

What is more disturbing is that members of this Committee, the Committee on Legislative Branch and Public

Finance, are the primary movers for the change back to the two-year term from the beginning to now.

As the Chairman of the Committee, I must defend the position of the Committee members. Again, I must defend the position of the Committee members.

I am pleading to all the members of the Committee to support our recommendation. Again, support our recommendation.

Please note that when you sign the report it states that the Committee recommends its passage on second reading.

I am not the Committee. There are 13 of us. I am asking the members for your support.

Please make good on your signature to support its passage.

It is a bad reflection to show our Delegates that what we sign is not what we meant to sign.

As a member of the Committee, I think we owe it to the Delegates who are not members to recommend its passage.

CHAIR SAN NICOLAS: Thank you, Chair Aldan.

DELEGATE TOMAS B. ALDAN: I'm not finished yet.

For those of you who are not members of this Committee -- can I continue?

CHAIR SAN NICOLAS: You may proceed.

DELEGATE TOMAS B. ALDAN: On behalf of the members, again, on behalf of the members, I'm asking for your support to

support the recommendation for the four-year term for the House of Representatives.

It is a noble approach to cure the ills of our unstable political system. We all know that oftentimes we see laws enacted only to be changed in a year or two.

A high turnover rate means something is wrong with the system. Every two years we see changes in the make up of the Legislature. This is also true in business, or in any organization, if there is a high-turnover rate, it means that it is not doing well.

This is instability as I see it. It lacks continuity, the same as in business or in any organization.

By having a four-year term, members will concentrate more on the task at hand rather than campaigning for reelection shortly after he or she takes the oath of office.

Also, the candidate will have a better return on his or her expenses before the next election.

The four-year term should entice a better pool of qualified candidates. We all know that it costs so much to run for public office. Ask any legislator how much.

Most of them are still telling you they are paying for the last one or they're still paying for the last two elections or, even some will suggest to you that they're still paying since three elections ago.

Let us give our legislators a chance to at least

recover the cost of election in one term.

Remember, that at-large elections will cost more to the candidates.

Further, by having elections every four years, the election costs to the government will be minimized.

I ask you to be mindful of the fact that we are downsizing the number. Let us give a four-year term to provide for a most stable political process.

I especially would like to thank the Committee members for their support in signing the report.

Thank you.

CHAIR SAN NICOLAS: Thank you, Chairman Aldan.

Delegate Hocog.

DELEGATE HOCOG: Thank you, Mr. Chairman.

The report, it's obvious, that my name was -- I had not signed it.

Does that mean that I'm the only one probably on the Committee that is free to talk out against it, the four years as proposed by the Committee?

CHAIR SAN NICOLAS: Proceed.

DELEGATE HOCOG: No. 1, Mr. Chair, I intend not to support Delegate Villagomez's amendment for recall by placing the two-year requirement. It is sufficient time enough for the people to recall at the next general election.

I supported during the initial debate the four-year

term for the House of Representatives; but after talking to a lot of voters and the public, they have agreed that the two years is good enough for the House of Representatives.

The --

CHAIR SAN NICOLAS: You may continue.

DELEGATE HOCOG: Thank you.

CHAIR SAN NICOLAS: Delegate Borja.

DELEGATE HOCOG: May I continue, Mr. Chair?

CHAIR SAN NICOLAS: I thought you were not going to.

DELEGATE HOCOG: I'm trying to catch my breath because the four years is critical.

CHAIR SAN NICOLAS: Are you going to continue?

DELEGATE HOCOG: Yes, if you would permit me.

I believe the people can very well accept the two years. From the initial start of the bi-cameral election, the Legislature proved to be a working legend for our government.

Come to think of it, Mr. Chairman, with these two years, there are legislators in the past, present, and probably in the future, that will use this period of time for their own selfish interest.

We have seen legislators, Mr. Chairman, important projects that warrant development or warrant approval from them. Even that will not react to the positive meanings of the economic development.

If we are to put back or if we are to give the four

years, they will, again, play around with these vital developments that warrant legislative approval.

Mr. Chairman, I am a victim of this. I want to prove beyond any reasonable doubt that it took me 4-1/2 years for the Legislature in itself to approve my 24-year lease of public land.

If I am to support the four years, what guarantee is there that in the four-year term these legislators will be responsive to the vital economic growth and public service to the people?

We will give them more time to play around. It will hamper the livelihood of the people, particularly, to the islands of Rota and Tinian.

This, in itself, made me change my belief in support of four year terms for the House of Representatives. That will justify my cause, Mr. Chairman, not to support my good Delegate's proposal for recall; that the two-year provision is enough time to make that recall.

Thank you, Mr. Chairman.

CHAIR SAN NICOLAS: Thank you, Floor Leader Hocog.

Ms. Frances Borja.

DELEGATE BORJA: Thank you, Mr. Chair.

I share Chair Aldan's position that as chairman we should, of course, support the Committee's recommendation. Just because I signed the Committee report, my opposing one section,

I think should not preclude me from signing that report.

I'm going through the process of what all the Delegates have to, that if you do not support the Committee's recommendation you can do so through an amendment. That's what I'm going through here. I think I'm in line.

I'm just asking for another chance to reconsider this. I'm willing. If the result is still the same, then I will, you know, support whatever the Committee comes up with.

Thank you.

CHAIR SAN NICOLAS: Thank you, Delegate Borja.

Any other comments or questions for the Chair? Is there a motion to adopt the report?

DELEGATE HOCOG: This is a subsidiary motion to change the term from four to two.

CHAIR SAN NICOLAS: My mistake.

All those in favor of changing the four-year term to two years, please respond by raising your right hand.

CONVENTION CLERK: I have 14.

Can we have a raising of the hand and keep them up?

14.

CHAIR SAN NICOLAS: All those opposed, please raise your left hands.

The motion is carried 14 to 9.

Yes, Chairman Aldan.

DELEGATE TOMAS B. ALDAN: I move to adopt the report as

amended.

(The motion was seconded.)

CHAIR SAN NICOLAS: It has been moved and seconded to adopt the report as amended.

Discussion?

All in favor of adopting the report say "Aye."

Opposed?

Motion is carried.

Next, calendared for the Committee of the Whole is Article 3, Executive Branch, second reading.

Delegate Felix Nogis, please.

MR. NOGIS: Thank you, Mr. Chairman.

The Committee on Executive Branch and Local Government presents the following report to the Delegates with respect to Article 3 on second reading.

There have been several amendments that were discussed within the Committee. So if I may, I'll give a summary. Thank you.

First, the Committee rejected proposals that the Executive Assistant no longer serve as a member of the Governor's Council.

Second, the Committee accepted an amendment that would require the Executive Assistant to submit an annual report to the Indigenous Council that is being established.

Third, the Committee agreed that the current

section 18, be deleted, which is in reference to the Executive Assistant's salary to be included in the Constitution.

Furthermore, the Committee rejected Amendment No. 20 dealing with section 19, which would eliminate other service credit and retirement bonuses as of December 31st, 1996.

Again, the Committee rejected Amendment 15 proposing the changes in section 20 relating to the new Council for Indigenous Affairs.

The Committee concluded that this was inconsistent with the idea that the council would be funded by the MPLT interest fund.

That pertains, Mr. Chairman, to the requirement of submitting a budget through the legislative process.

Again, the Committee rejected Amendment No. 30 which seeks to eliminate one of the transitional provisions that accompanied this article.

This amendment seeks to delete the provision that all annuities would be taxed at a rate in place on December 31st, 1994, until such time as the Legislature acts to enact new tax legislation based on the tax task force currently working on the subject.

In regard to the Committee changes, the Committee has included certain changes in the attached draft that were the result of further review by the counsel and the Committee.

First, the Committee recommends the language of

section 7 be changed to standardize the reference to the presiding officer rather than the President of the Senate.

Second, the Committee made some clarifying and editing changes to section 9 to which no substantive changes are involved.

Third, there is some editing, changes to section 12, pertaining to the Public Auditor.

With that, Mr. Chairman, the Committee recommends the passage of the attached Article 3 on second reading.

Thank you.

CHAIR SAN NICOLAS: Thank you. Any questions for the Chair at this time?

Yes, President Guerrero.

PRESIDENT GUERRERO: Yes.

Mr. Chairman, I have a proposal to amend section 19 of the bill itself, I mean, of the article, proposed article. That is to delete subsection (e) of section 19 of Article 3.

I move to delete that.

CHAIR SAN NICOLAS: It's been moved.

(The motion was seconded.)

CHAIR SAN NICOLAS: It has been moved and seconded to delete subsection (e) of section 19 of Article 2.

PRESIDENT GUERRERO: May I continue, Mr. Chairman?

CHAIR SAN NICOLAS: Yes.

PRESIDENT GUERRERO: I believe the intention is noble and

the fact that it requires also the Legislature to appropriate the necessary funding, this is purely a legislative matter.

I believe that the Constitution should cover the masses and not just a selected number or handful of people. I would leave that up to the discretion of the Legislature, and perhaps, in our legislative history, we could ask that the legislature enact the appropriate legislation on this subject.

I believe that they should be accorded that special privilege, but it should be in legislative matters. It's a topic that it does not -- it only serves a handful of people. The Constitution should be broad enough that it would encompass, supposedly, the majority of the people of the Commonwealth.

Thank you, Mr. Chairman.

CHAIR SAN NICOLAS: Chairman Nogis.

DELEGATE NOGIS: Thank you, Mr. Chairman.

I have no objection against that; however, just be sure that it's included in the legislative history.

Thank you.

CHAIR SAN NICOLAS: Any further discussion on the move to delete subsection (e) of section 19 of Article 3?

Delegate Tom Aldan?

DELEGATE TOMAS B. ALDAN: My good President sometimes makes a lot of sense, and this is the case where he makes 50 percent sense.

The additional benefits currently awarded to former

elected officials and judges are now paid out of the fund. Inasmuch as the support is there already for the deletion of (e), I would like to suggest that the additional benefits currently --

CHAIR SAN NICOLAS: Chairman Aldan.

Change of tape.

(Tape change.)

CHAIR SAN NICOLAS: You may proceed, Chair Aldan.

DELEGATE TOMAS B. ALDAN: The additional benefits that are presently given to elected officials and judges shall be taken out of appropriated funds; and, if the Committee or the members of this body now approve to delete it, that such a provision should be provided in transitional periods; that effective upon passage of this provision, all benefits that are currently given to former elected officials and judges shall be not paid out of assets, but rather appropriated funds. That is a 3 percent benefit for every year an elected official serves, and it's not available to all members of the fund on an equal basis.

With the indulgence of the mover, I would like to show that -- I would like to move to have that last sentence be maintained or put under the transitional period.

Thank you.

(The motion was seconded.)

CHAIR SAN NICOLAS: President Guerrero, do you agree with

the motion?

DELEGATE HOCOG: The President does not have to agree.

PRESIDENT GUERRERO: May I respond to that?

DELEGATE HOCOG: There is a motion and we have to dispose of it.

MR. WILLENS: Mr. Floor Leader, it's perfectly correct to ask the mover whether the mover agrees with the proposed amendment that simplifies the procedures, and the President is entitled to respond to that invitation by the Chair.

PRESIDENT GUERRERO: Thank you, Mr. Chairman.

To place it in the transitional matters, it would be up to the general members if they so desire.

I'm still not too clear in terms of the amendment, but other than putting it in the transitional matter, what purpose does it serve, if it's there? Are we legislating and putting it in the transitional matters or not?

But if he is trying to put it over there and to amend it further, I'm willing to, perhaps, go that route.

CHAIR SAN NICOLAS: Thank you.

PRESIDENT GUERRERO: Thank you.

CHAIR SAN NICOLAS: Chairman Aldan.

DELEGATE TOMAS B. ALDAN: Just a clarification.

This benefit is now given to elected officials and judges. It is not available to any other employees, the retirement fund. All I want to make clear is that that benefit

shall not be paid out of the fund assets, but rather appropriations because that is a benefit.

PRESIDENT GUERRERO: Mr. Chairman, point of order.

CHAIR SAN NICOLAS: State your point.

PRESIDENT GUERRERO: Perhaps, what he is recommending, I would suggest is that we should entertain my motion.

If he wants to put it back in the transitional matter with the appropriate language, with what he is trying to amend, then, perhaps, that is the more orderly fashion.

I ask the mover that we would go that route.

CHAIR SAN NICOLAS: Let's dispose of your motion to dispose subsection (e) of section 19 of Article 3.

All those in favor of that motion.

DELEGATE HOCOG: I think, Mr. Chair, we should take care of the subsidiary motion of Delegate Aldan.

CHAIR SAN NICOLAS: I'm sorry.

DELEGATE HOCOG: Would it be in order for Delegate Aldan to withdraw it?

CHAIR SAN NICOLAS: Withdraw or restate your motion, Delegate Aldan.

DELEGATE TOMAS B. ALDAN: I'll speak to the counsel.

If I withdraw the motion, it means that we vote on the main motion, and that would essentially kill (e); correct?

If (e) dies, then what am I amending or what am I proposing?

MR. WILLENS: If the Convention votes to eliminate (e) from the text of section 19, you could make a motion to have that portion of (e) that you are addressing your motion to be included in the transitional schedule.

DELEGATE TOMAS B. ALDAN: That's my subsidiary motion.

MR. WILLENS: It's not clear whether your motion pertains to both sentences of subsection (e) or only the second sentence.

I think if the President understood that, then, perhaps, he may have responded differently to the question put to him from the Chair.

PRESIDENT GUERRERO: I see.

CHAIR SAN NICOLAS: Second sentence.

PRESIDENT GUERRERO: He just wants to move the second sentence to the -- leave it there?

Can we have a short recess?

CHAIR SAN NICOLAS: Short five-minute recess.

(A recess was taken from 2:42 P.M. to 2:53 P.M.)

CHAIR SAN NICOLAS: I call the Committee of the Whole back together.

As it stands now, if I'm not mistaken, Delegate Aldan, you wish to strike out the first sentence and put the second sentence of subsection (e) into transitional matters?

DELEGATE TOMAS B. ALDAN: No.

My motion is to take the last sentence and make it a

transitional provision. While the Senate President wants to delete --

PRESIDENT GUERRERO: Senate President?

DELEGATE TOMAS B. ALDAN: The Con-Con President wants to delete the first sentence.

PRESIDENT GUERRERO: Mr. Chairman, if I may.

CHAIR SAN NICOLAS: Yes.

PRESIDENT GUERRERO: I think, basically, what you stated is the same thing as what he is saying.

Basically, it's to amend my initial motion, deleting the first sentence and moving the second sentence to the transitional matters.

We're both speaking the same language. He was just restating it differently.

DELEGATE HOCOG: Different version.

CHAIR SAN NICOLAS: Is that true, Delegate Aldan?

DELEGATE TOMAS B. ALDAN: Yes.

Again, I said "No."

I'm not proposing to delete (e). The President is. I'm proposing to move the last sentence of (e) if the first sentence is to be eliminated so that (e) will be part of the transitional provisions.

CHAIR SAN NICOLAS: I'll call for a vote on the subsidiary motion.

All those in favor of Delegate Aldan's motion to

put the last sentence of subsection (e) into the transitional provision, please state "Aye."

All those opposed, please say "Nay."

Motion carried.

Back to the main motion.

Mr. President, could you restate your motion.

PRESIDENT GUERRERO: Well, it's already been amended, so it's basically to delete subsection (e) of Article 3, section 19.

CHAIR SAN NICOLAS: All those in favor of that motion, say "Aye."

All opposed.

Motion carried.

Yes, Delegate Tenorio.

DELEGATE TENORIO: Thank you, Mr. Chair.

I'm offering Delegate Amendment No. 30 in the Committee of the Whole.

The amendment is to delete item 3 on the schedule on transitional matters on Article 3.

The section reads:

All annuitants shall be taxed at the rate in effect on December 31st, 1994, until the Legislature enacts tax legislation based on the recommendations of the tax task force currently in existence.

I move that this provision be stricken out of this

schedule.

(The motion was seconded.)

CHAIR SAN NICOLAS: It has been moved and seconded.

Discussion?

All in favor of that motion, say "Aye."

All opposed.

Motion carried.

Any more motions?

Is there a motion to adopt the report of Article 3, Executive Branch, second reading?

(The motion was seconded.)

DELEGATE TENORIO: As amended.

CHAIR SAN NICOLAS: As amended.

(The motion was seconded.)

CHAIR SAN NICOLAS: Discussion?

All in favor of adopting Article 3, second reading, as amended say "Aye."

Opposed?

DELEGATE SEMAN: Wait.

May I point out, Mr. Chair, a point of clarification.

This reporting rule, section 13, regarding education, I believe our Committee on Judiciary and Other Elected Offices is amending that section.

MR. WILLENS: Let's be clear on that.

First of all, section 17 is not before the body. Section 17 is withheld pending further consideration in the Committee. The report so states. Don't let anyone be misled on that proposition.

Section 13 on education, and section 16 on Civil Service have come out of another Committee.

If the Chairman of that Committee wants to present discussion and lead discussion on either of those sections, this would be the time to do it.

CHAIR SAN NICOLAS: Once again.

All in favor of adopting the Article 3, Executive Branch, as amended, please say "Aye."

Opposed?

Motion carried.

Delegate Hofschneider, did you have anything to say?

DELEGATE HOFSCHEIDER: In line with the previous article that has just been approved as amended whereby we're moving from Article 15 and Article 20 to be included under this Article 3, am I in order to proceed, Mr. Chair?

CHAIR SAN NICOLAS: Yes, you are.

DELEGATE HOFSCHEIDER: First of all, I would like to address Article 3, section 16, Civil Service.

Mr. Chair, the Committee presents the following report to the Delegates with respect to Article 3, section 16,

Civil Service for the second reading.

On Delegate proposals, the Committee report No. 3 on Article 3, section 16, came out on July 18.

After that time, Delegate proposals 538, 539, 540, 541, 550, and 568 were submitted. The Committee has considered these proposals.

Floor discussions: The Committee of the Whole discussed report No. 3 on July 13, 1995. At that time one Delegate inquired whether it would be possible to have the Commission report the number of exempt positions that have been created. The Committee will include this in the Legislative history. Another Delegate raised a concern about whether the Civil Service Commission would have a large bureaucracy under the Committee's recommended approach. The intent to require a small staff to attend to the Commission's specific functions will be also included in the Legislative history.

Two Delegates asked whether division chiefs or division heads would be included in the Civil Service. The Committee responded that they are included in the Civil Service unless excepted positions are created by the Legislature and that will be reflected in the legislative history of the Constitution.

On Delegate amendments, the Committee received Delegate Amendment No. 14 that suggested a specific role for the Civil Service Commission in setting salaries.

The Commission would be given the function of recommending salary increases, which the Legislature could approve, decrease, or reject.

The Legislature could not increase salaries as recommended by the Commission and could not set the salaries on its own.

The Committee believes this concept is a worthy addition, because it would further insulate the Civil Service from political promises about salary increases made during political campaigns.

The Committee recommends that Delegate Amendment 14 should be adopted as follows: The Civil Service Commission shall establish the classification for each position for which it has jurisdiction, but may exempt positions from classifications where necessary to serve important government interests. The Civil Service Commission shall establish policies for the compensation for Civil Service positions and may submit to the Legislature salary schedules based on such policies. The Legislature may accept, reduce, reject the salary schedules submitted by the Commission, but may not increase any salary or take any other action with respect to setting salaries for Civil Service positions.

The Committee does not recommend any other changes. That is all.

Mr. Chair, I move for the Committee of the Whole to

adopt Article 3, section 16, Civil Service.

(The motion was seconded.)

CHAIR SAN NICOLAS: Discussion?

Can I clarify something?

The last report we adopted was the report from Chairman Felix R. Nogis. This is a separate report to be incorporated in to Article 3.

Yes, Delegate Aldan.

DELEGATE VICENTE ALDAN: I want to raise a couple of points.

One is that we're creating a system that will work well. The only problem is that we have not tackled the problem of what to do with the mistakes of the past.

Would there be a language in the legislative history that will correct a person who is a high school graduate earning a Master's salary? Will that be corrected later on, and a person who has a Master's Degree earning a high school salary will be corrected later on as well?

MS. SIEMER: As new positions are swept into the Civil Service jurisdiction by this amendment, the Commission will have to classify those positions and set requirements for them and make salaries commensurate with the qualifications.

It does not affect existing decisions that the Civil Service Commission has already made.

DELEGATE VICENTE ALDAN: So this new Civil Service will

basically be viewed by the public as not doing its job because all of the wrongdoing in the past will not have been corrected.

MS. SIEMER: There are new jobs coming in. Those will be corrected.

If the Civil Service Commission itself has made a decision with respect to an individual job or individual salary, this constitutional language does not in itself go back and correct those things.

What will happen is that the new Civil Service Commission, which is all people from the private sector, because now the Commission is different, those people would be expected to go back and fix exactly what you are talking about. That is the reason why the Committee specified that they be from the private sector.

DELEGATE VICENTE ALDAN: So there will be language in the legislative history to correct some of this?

MS. SIEMER: To express the intention of the Convention that the private sector persons coming in to this job will take a careful look at the rationale for the existing qualifications and salaries, yes, within that.

DELEGATE VICENTE ALDAN: What I want to recommend is if a person is making a Master's Degree salary and only has a high school education, maybe it should be put in the legislative history that a letter will be sent to that person that it will take -- in five years we recommend that you get a Master's

degree or else your pay scale will be reclassified down to your merit level.

MS. SIEMER: It is difficult at the constitutional level to deal with individual cases.

Really, the best you can do is to say that when new people from the private sector come in to this job, they should look carefully to be sure that the system is working the way it was intended. That should encompass the examples that you are concerned about.

It's very difficult at the constitutional level to correct the specific cases and the specific things that need to be done.

CHAIR SAN NICOLAS: Yes, Delegate Gonzales.

DELEGATE GONZALES: I was going to add to Dr. Aldan's recommendation that instead of doing it a specific way, what about putting language in that would say that one of the main priorities or top priorities that the newly strengthened Civil Service Commission should focus on is to scrutinize existing position classifications and restructure them in such a way as to make it more equitable and fair, commensurate with the merit, experience, and qualifications of the individual, some general language that would be all embracing.

CHAIR SAN NICOLAS: Incorporating.

DELEGATE GONZALES: Language that would say --

MS. SIEMER: That's a good idea.

DELEGATE GONZALES: One of the main priorities is to reclassify, restructure.

MS. SIEMER: Look at the system and make sure it's operating properly.

CHAIR SAN NICOLAS: Thank you.

President Guerrero.

PRESIDENT GUERRERO: Thank you, Mr. Chairman.

It's nice to have a Master's Degree. Also, a lot of our people have worked and went from the rank and file, and they have progressed from the bottom up.

Some of the Delegates, perhaps, have earned 50 cents an hour when they first started working. Just because you went and spent \$500 on books and, perhaps, \$5,000 on getting a Master's and getting a nice certificate does not mean that you are smarter than those that are currently on board.

There are things that need to be weighed. Sometimes people with lots of degrees make lousy businessmen. People that have less education have better common sense and are much more successful as businessmen. There is a lot to be said.

It needs to be balanced out. I think that the suggestion made by Delegate Gonzales that it needs to insure that we -- we take into account work experience.

Sometimes it's those that don't have the high degrees that are the ones that actually provide the training to those that are getting the Master's Degree when they start

working.

We need to insure that we don't ignore those people. Just because they don't have the degrees, they have more years of experience. They, perhaps, already tried out practical things rather than just theories.

We need to be sure that these people are well compensated for the years of working for the government. On the other hand, we need to insure that the system is not being taken advantage of.

Thank you, Mr. Chair.

CHAIR SAN NICOLAS: Floor Leader Hocog.

DELEGATE HOCOG: Mr. Chair, I believe that section 16(c) mandates the Civil Service to establish policies and compensation for Civil Service positions.

I would like to recall a discussion about the setting of compatible salaries to those nonCivil Service employees, is also to be inserted in here. I have not seen this.

Other concern, Mr. Chair, while we mandate the Civil Service to set policies and compensation, I think the submittal to the Legislature is only on a permissive type, and assuming that the Civil Service Commission does not submit to the Legislature, what do they think of that?

What is the effect of such action if they did not submit to the Legislature?

MS. SIEMER: Mr. Floor Leader, if I may assist with that.

The concern about salaries being comparable with those in the private sector is an important one.

The Committee sought to meet that concern by requiring that the Civil Service Commission members themselves come from the private sector.

It is their judgments that will be applied as to what reasonable salaries, for the kinds of jobs for which the Civil Service Commission has jurisdiction, will be.

The second part of your question, though, is a little bit more difficult. What was embodied in the Delegate Amendment is that there is a problem when the Legislature continually raises civil service salaries. They get beyond what the private sector has and they get to be out of sync with the private sector and that causes a number of difficulties.

The idea of giving the Civil Service Commission, all of whom come from the private sector, the exclusive prerogative to initiate salary moves was to try to control this.

There isn't any reason to believe that the Civil Service Commission would not be fair with respect to salaries, but it is an effort to control excesses, as I understand the Delegate amendment.

DELEGATE HOCO: So what you are telling us, Deanne, is that Civil Service people don't have to submit to the Legislature the salary schedule for their rejection or approval,

except to increase salaries?

MS. SIEMER: There is no requirement that each year the salaries go up, that's correct. The Civil Service Commission could elect to decide that current salaries were sufficient.

In that instance, they would not submit a proposed raise. If they do decide that a proposed raise is necessary, they would submit the proposed raise, and the Legislature could decide, first, that it's fine; or, second, that there is not enough money and they want to reject it or reduce it.

But what the Legislature could not do is add 25 percent on to what the Civil Service Commission recommended.

DELEGATE HOCOG: Thank you.

CHAIR SAN NICOLAS: Delegate Gonzales.

DELEGATE GONZALES: The issue of adjudication of grievances between employees. I know that I can attest to the present system. It does not have that much teeth and enforcement with regard to resolving grievances between and amongst employees of governmental agencies.

I was wondering if I could ask, Mr. Chair, legal counsel Siemer that that would be addressed in the legislative history or how would it be addressed to insure that employee grievances are followed up from the beginning to the end and that some respect is given to that Commission to do its job as mandated by the Constitution?

MS. SIEMER: There is no problem with the Commission

having the power. They're given the power, and the word "adjudicate" is put in the Constitution with respect to their power.

The thought of the Committee was that by shifting to persons from the private sector to get this thing to run efficiently, that that was the best way to make sure that your objective is attained.

But the legislative history does include that priority, that employee grievances need to be addressed effectively for the system to work.

CHAIR SAN NICOLAS: Yes, Delegate Villagomez.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman.

We passed Article 3, section 16(a) and (b). This is 16(c). (b) deals with adjudication. It deals with including the administrative employees of different branches, including autonomous agencies within the Civil Service System to insure that they meet the standards.

This was thoroughly discussed at the Committee level. It was addressed, all concerns that were raised.

CHAIR SAN NICOLAS: Delegate Mendiola.

DELEGATE JAMES M. MENDIOLA: I think the concern that is raised here is covered under the present rules and regulations.

If you look at the regulations that have been published by the Civil Service, it's about three-quarters of an inch thick. There is a detailed explanation how you are going

to go about from grievances to promotion. There is the Civil Service classification with schedules as to what degree you have, what salary you will receive, or a degree is equivalent to how many years of work experience.

So it covers almost everything in it and we don't have to put it in the Constitution.

CHAIR SAN NICOLAS: Further discussion?

All in favor of adopting Committee report on Civil Service, please say "Aye."

All opposed.

Motion carried.

Chairman Hofschneider, do you have a report on Education?

DELEGATE HOFSCHEIDER: Yes, I do, Mr. Chairman.

Earlier, during the plenary session I discussed the fact that some of the members would like to see this calendared for tomorrow.

I may ask the Chair to see if at this point in time the consensus of the Committee of the Whole wants me to introduce this.

CHAIR SAN NICOLAS: Tomorrow?

DELEGATE HOFSCHEIDER: Today.

Is it the consensus of the Committee of the Whole to have it introduced today.

Can I have a show of hands of who would like to

have it today?

Go ahead.

DELEGATE HOFSCHEIDER: Thank you, Mr. Chairman.

Mr. Chair, on Article 3, section 13, formerly Article 15, Education, your Committee on Judiciary and Other Elected Offices has reviewed the suggestions of Delegates from the floor debate and Delegate Amendments. We have two amendments to recommend.

When we discussed the local school board, several Delegates were concerned about the situation where three or more of the school board positions became vacant at the same time.

During the discussion on the first reading we worked out language to cover that. We have included that in our recommendation.

If three or more vacancies exist and more than half the term remains, there will be special election within 30 days. If less than half the term remains, then the secretary will appoint the new members.

The Northern Marianas College has asked us to put in some language to cover all post secondary education, institutions generally. We have done that, also.

This language is in subsection (e). We met with the President and others from the College this morning, and this is acceptable to them.

Therefore, I would like to move the Committee of

the Whole adopt Article 3, section 13 on Education.

(The motion was seconded.)

CHAIR SAN NICOLAS: It has been moved and seconded to adopt Article 3, section 13.

Discussion?

Delegate Gonzales.

DELEGATE GONZALES: I want to speak on behalf of the Delegates that introduced that amendment.

I want the record to reflect that it's nothing that is substantive from the actual proposal raised by the Committee.

It basically insures that there is a real and practical priority that is placed on the need and necessity for us to realize the importance of a post secondary education in the Commonwealth.

It's my belief that with this language embodied in the Constitution, and for that matter, from the public and the people, the voters of post secondary education for which with this priority we would eventually be in line, and consistent with the need of our Commonwealth to educate and professionally train and highly technically train our local people in the coming years.

Thank you.

CHAIR SAN NICOLAS: Yes, Delegate Aldan.

DELEGATE VICENTE ALDAN: Article 3, section 13(d), annual appropriation for instruction. I would like to make a motion to

strike out "instruction" and make it general.

CHAIR SAN NICOLAS: You are referring to what letter, please?

DELEGATE VICENTE ALDAN: Section 13(d).

CHAIR SAN NICOLAS: Restate your motion.

DELEGATE VICENTE ALDAN: I would like to make a motion to strike out "instruction" there, and make it --

DELEGATE HOFSCHEIDER: Mr. Chair, can I have the -- our counsel explain that portion before any action is considered by the floor regarding that particular phrase?

I understand what Dr. Aldan is getting to.

MS. SIEMER: The purpose of that section to set aside the instruction, the core instruction money and distribute that on a per enrolled student basis. Administration money would not be distributed that way. That would not be fair to Rota and Tinian where the costs are higher.

Administration costs for services, shipping, and materials are higher there. If you distributed everything on a per enrolled student basis, they would suffer. They should not may have to take their extra costs out of the instruction funds.

The theory of the Committee's approach is that making instruction, the core of teachers and materials, on a per enrolled student basis insures that the schools will get a certain amount of money for every student.

Then, on top of that, the Legislature can consider

the differences between Rota and Tinian and make those up out of appropriation for administration. There would be differences in the appropriation for CIP. The circumstances are not the same.

The idea is to focus on instruction, make sure the Legislature makes an appropriation for instruction. When it does that, it treats every student equally.

DELEGATE VICENTE ALDAN: You are saying that if a level of instruction was given in Saipan for so many dollars, let's say \$50, then there would be \$50 also allocated for instruction in Tinian and Rota; right?

It does not matter whether -- the question -- the quote there is "instruction."

MS. SIEMER: That's correct. No student's education will be held hostage by politics because every student, no matter where they are in school, if they are in a public elementary school, will get the same per student allocation. There will be no political incentive to hold things up one way or another.

This constitutional provision is an attempt to take politics out of the core, which is the instruction, but to leave it to the Legislature to make up the extra costs on Rota and Tinian out of administrative budget, which is not on a per student basis.

You can't take politics out of all of it. The effort is to take politics out of the core of it. That's the Committee's effort.

DELEGATE VICENTE ALDAN: The way I interpret this, you know, if it takes \$100 to instruct one student in science in Saipan, then that same \$100 should be -- will be given to -- another \$100 will be given to Tinian to instruct one student there.

Let's say if Saipan has 3,000 students, that would make -- that will give Rota the same \$300,000 for that level of instruction.

It's on the second line.

DELEGATE TOMAS B. ALDAN: Point of order.

DELEGATE VICENTE ALDAN: I would like that "instruction" struck out and make it general.

CHAIR SAN NICOLAS: Do you wish to continue with that motion given the information?

Restate your motion.

DELEGATE VICENTE ALDAN: I want that "instruction" struck out.

CHAIR SAN NICOLAS: Any seconds?

Motion defeated.

Yes, Delegate Aldan.

DELEGATE TOMAS B. ALDAN: I have a very difficult time of doing the proposed local boards.

What bothers me the most is the local school board would be responsible for the faithful execution of the laws and policies of the Commonwealth. That statement is very far

reaching.

I think that deep down I'm bothered by that statement. Deep down, I cannot support the passage of this recommendation to have three locally elected school boards with such a humongous task.

I beg the support of the Delegates to look at the language carefully, analyze it. Feel, if you can, the sense of that language.

Do you really want the local school board to be responsible for the faithful execution of the laws and the policies of the Commonwealth? My goodness.

I just fought yesterday that these functions and responsibilities should belong to the Governor.

These functions and duties should not be outright delegated to local school boards. The passage of this amendment, as is written today, makes my fight yesterday meaningless.

All it lacks is enforcement. What is enforcement if you are delegated basically by Constitution without saying the word "delegated" to its local school board?

If we can't do this for the schools, why can't we can't do it in local government?

For that reason, I'm asking you to strike this recommendation down.

Thank you.

CHAIR SAN NICOLAS: We'll take a five-minute recess.

Les and Michele are going to change.

(A recess was taken from 3:30 P.M. to 3:50 P.M.)

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CHAIR SAN NICOLAS: Calling the Committee of the Whole back to order at this time as far as the discussion on Education is concerned, Delegate Hofschneider, Nogis and Manglona that is the order for this discussion.

Delegate Hofschneider.

DELEGATE HOFSCHEIDER: I would like to speak on the issue that Tomas Aldan presented earlier. I think the concept of formulating three local school boards is completely different from establishing local mayor's offices compared to the mayor's office in Rota and Tinian.

I think the Committee has done an excellent job on making sure that the Secretary of Education, the proposed Secretary of Education, will promulgate the rules and other policies of the public school system, at the same time execute Commonwealth laws as they are provided for the public school systems and then give certain jurisdiction to certain local school boards that are applied to their senatorial districts on those issues that are applicable to their schools. So the local school board does not get control of Commonwealth laws. They are locally elected to oversee their respective school districts based upon the supervision

of the Secretary of Education.

That's it, Mr. Chairman.

CHAIR SAN NICOLAS: Thank you.

Delegate Villagomez, please.

DELEGATE VILLAGOMEZ: Thank you, Mr. Chairman.

I stand in support of section 13(e) with respect to higher education, adult continuing education and vocational education basically to ensure protection for the college and to put it in the Constitution.

CHAIR SAN NICOLAS: Delegate Nogis.

DELEGATE NOGIS: I think my concern is addressed by Chairman Hofschneider. Thank you, Mr. Chair.

CHAIR SAN NICOLAS: Next, Delegate Manglona, please.

DELEGATE MANGLONA: First, I would like to congratulate members of this Committee for their complete insight and understanding of how important education is to all of our islands and all of our people. I believe their concept in decentralizing education is really the concept that we from Rota and perhaps those from Tinian really support.

During the first Constitutional Convention, our representatives from Rota and also from Tinian, and who were supported by the representatives from Saipan,

were calling for decentralized public services on the islands and that was their primary goal.

I don't believe that if the representatives from Saipan told us that they would not accept decentralized public services that we would have accepted to be part of this Commonwealth, but that is one reference to that concern.

Another reference in 1985 where you can see the same wording is carried over from 1976 calling for a decentralization of public services to Rota and Tinian.

I am surprised that only now, only the Third Constitutional Convention is arguing against it. And I have sent a proposed draft as it pertains to the Article on the Executive Branch on, I believe section 17(a), that that is not the case at this time.

CHAIR SAN NICOLAS: Delegate Manglona, you are referring to Education?

DELEGATE MANGLONA: Yes, yes, because of that issue that was diverted earlier.

Now, let me go back to the real issue. Again, thank you, the Committee, for decentralizing education so that it provides our local boards to have the responsibility for the administration of our

schools at the local level.

I have no problem with this wording that they will be given the responsibility for the faithful execution of Commonwealth laws, laws and regulation. I think this is a good step to accommodate the wishes of our sister islands on Rota and Tinian.

In the Covenant, as it pertains to the Executive Branch, it says that that power can be given to other officials, other officials and, again, the Covenant went on to say that the treaties, the Constitution of the United States and laws along with our Constitution and laws is the supreme law of our land.

So, there is nothing wrong with this, I think it is our job now to make the language of the Covenant consistent with that of our Constitution.

Even if we don't put this language directly under the Executive Branch, I am sure that it meets the test if we put it here because we put it in the Constitution, and I strongly support and I congratulate the members for putting this.

Just like, as I can give you an example, you know, if my mother says: I give you \$5 but you can only spend that \$5 to buy pencils, books and color

crayons, then I have to spend that based on my mother's instruction.

The same thing with any laws. The legislature makes laws that are approved by the governor. Any law that is passed on to us, we must follow. Who makes regulations and rules and policy? The governor. We cannot make rules and policy down at the local level, only the governor, and once the governor makes the rules and policies Rota must carry it out; Tinian must carry it out.

What is wrong with that system? I believe there is nothing wrong. I want to urge my colleagues to please help us. What we say is whatever we put out in the central government, then naturally we just have to follow it because we are one Commonwealth and I hope we can accept that principle.

CHAIR SAN NICOLAS: Thank you, Delegate Manglona.

Delegate Aldan.

DELEGATE T. ALDAN: Mr. Chairman, I move that we do not have three elected local boards and have only one board appointed by the governor with the advice and consent of the Senate.

(The motion was seconded).

CHAIR SAN NICOLAS: It has been moved and seconded

to have only one board rather than three as it is referred to in the Committee report.

Discussion?

All those in favor of that motion please say "Aye."

All those opposed please say "Nay."

The motion is defeated.

Delegate Aldan.

DELEGATE T. ALDAN: Can I ask Deanne, or maybe my motion should be, I move to strike that the local board would not be responsible for the faithful execution of Commonwealth laws and policies of the Commonwealth?

(The motion was seconded).

CHAIR SAN NICOLAS: It has been moved and seconded.

Discussion?

If you are ready, all those in favor please say "Aye." All those opposed please say "Nay."

That motion is defeated.

Delegate Hofschneider.

DELEGATE HOFSCHEIDER: Ready for the question.

CHAIR SAN NICOLAS: All those in favor of adopting the Committee report on education, please say "Aye." All those opposed please say "Nay."

The motion is carried.

Moving to Chairman Hofschneider, Article 4, Judiciary.

DELEGATE HOFSCHEIDER: Thank you, Mr. Chair.

The Committee presents this report to the delegates with respect to Article 4, Judicial Branch.

I would like to report first on proposals. Report No. 1, Committee report No. 1, on Article 4 was prepared on June 23rd. Since that time only delegate proposals 515 and 526 were submitted, and the Committee has considered each of these proposals. The floor discussion on the Committee of the Whole discussed revised report No. 1 on July 6, 1995. At the time, delegates expressed concern over the provision that prevents decreasing the salaries during a term of office.

The Committee discussed this concern in conjunction with Delegate Amendment No. 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.

As to 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 for 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 the 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 in the new system in which judges are subject to approval of the voters that it would be sufficient also 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 steep decreases in salary, it 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: "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 presiding judges and court officials, arbitration of smaller matters, establishment of special sections of

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 claims 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 up through 8 and 10 and 11. The Committee recommends the change set out above with respect to 9(c).

Thank you, Mr. Chair.

CHAIR SAN NICOLAS: Thank you, Chairman Hofschneider.

Any other questions for the chair?

Floor Leader.

DELEGATE HOCOG: Vote for the adoption.

(The motion was seconded).

CHAIR SAN NICOLAS: It has been moved and seconded to adopt the Committee report on the Judiciary.

Discussion?

Delegate Aldan.

DELEGATE V. ALDAN: Thank you, Mr. Chair. That is a question for our legal counsel.

If a judge's salary cannot be decreased and let's say that the advisory commission recommends that the current judge's salary shall be \$70,000 and because of the grandfather clause of this provision makes the previous judge's salary at \$120,000, what would prevent the judge with the lower salary from suing the commission for the discrepancy?

MS. SIEMER: There would be no cause of action under that scenario.

The commission has the authority to set salaries and basically cannot reduce the salary of a judge during a term of office. So if the salary commission decided to decrease salaries that would be a record event in the Commonwealth. That has never occurred in the history of the Commonwealth ever, but should that occur, Delegate Aldan, you are right as to the solution and that is that the salary commission's recommendations could be made with respect to any new judges as they take office.

CHAIR SAN NICOLAS: Delegate Villagomez.

DELEGATE VILLAGOMEZ: Just to follow up on

Delegate Aldan's question, we cannot predict the future. Here we are, we are passing approving a superior court judge for six years; Supreme Court justice for 12 years and if the advisory commission recommends the justice's salary to be lower than the \$120,000 because of the economic conditions I think there has to be a mechanism within the Constitution to allow for such a decrease.

Do we have to wait for 12 years before a justice's salary to be decreased? I doubt whether that judge would decrease his salary. If I am a judge I will stay there. I will stay there. I will wait for 12 years.

CHAIR SAN NICOLAS: Further discussion?

All those in favor of adopting the Committee report on the Judiciary, please say "Aye."

All those opposed say "Nay."

Motion carried.

On to Article 5, Washington Rep, Chairman Hofschneider.

DELEGATE HOFSCHEIDER: Thank you, Mr. Chairman. I would like to move to adopt Article 5, representation to the United States on second reading to the Committee of the Whole.

(The motion was seconded).

CHAIR SAN NICOLAS: It has been moved and seconded.

Discussion?

President Guerrero.

PRESIDENT GUERRERO: Thank you, Mr. Chairman.

I wonder whether it might be a good idea to reduce the term to get him prepared, the Washington Rep, in the event Congress granted a nonvoting Delegate to Congress which is basically a two-year term. I wonder if it is better to have him get used to that idea and perhaps follow the same principle as a House member.

CHAIR SAN NICOLAS: Chairman Hofschneider, do you have any response to that?

DELEGATE HOFSCHEIDER: The Committee did review and discuss some of those aspects but we felt that we cannot calendar the U.S. Congress. They know what they want and they will make a decision whenever. So the uncertainty is there. We don't know. Therefore, we would like to recommend against it.

CHAIR SAN NICOLAS: Further discussion on the adoption of Article 5?

Ready for the question?

All those in favor of adopting Committee report on Washington representatives please say "Aye."

All those opposed?

Motion is carried.

Floor Leader Hocog do you make a motion?

DELEGATE HOCOG: Thank you, Mr. Chairman. You have recognized me again. So I would like to rise back to the plenary session.

(The motion was seconded).

CHAIR SAN NICOLAS: It has been moved and seconded to rise back to the plenary session. All those in favor please say "Aye."

All those opposed say "Nay."

Five-minute recess.

(Recess taken from 3:55 p.m. to 4:10 p.m.)

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

I call on Delegate Joey San Nicolas to report on the deliberation of the Committee of the Whole.

DELEGATE SAN NICOLAS: Thank you, Mr. President. I am pleased to report on the actions of the Committee of the Whole.

First, the Committee considered the report of the Committee Legislative Branch and Public Finance and

recommended that Article 2 be passed on second reading.

Second, the Committee considered the sections of Article 3 that were presented to it and recommends that these sections of Article 3 be passed on second reading.

Third, the Committee considered the report, the Committee on Judiciary regarding Article 4, and recommends that article 4 be passed on second reading.

And, fourth, the Committee considered the report of the Committee on Judiciary and Other Elected Offices regarding Article 5. The Committee recommends that Article 5 be passed on second reading.

PRESIDENT GUERRERO: Delegate San Nicolas, as to all the Committee reports or the language, were there any amendments?

DELEGATE HOFSCHEIDER: Yes, there were amendments.

CHAIR SAN NICOLAS: The Committee is recommending those passed as amended. Thank you.

DELEGATE HOFSCHEIDER: As recommended.

PRESIDENT GUERRERO: Mr. Floor Leader.

DELEGATE HOCOG: Mr. President, I would like now to move to pass Article 2 on Legislative Branch on

second reading as amended in the Committee of the Whole.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to pass Article 2 on second and final reading as amended by the Committee of the Whole.

Discussion?

DELEGATE HOCOG: Ready.

PRESIDENT GUERRERO: If not, Con-Con clerk, roll call, please.

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

YES: Delegates Tomas B. Aldan, Vicente S. Aldan, Marian Aldan-Pierce, Frances LG Borja, Esther S. Fleming, John Oliver DLR. Gonzales, Herman T. Guerrero, Victor B. Hocog, Henry U. Hofschneider, David L. Igitol, Jose R. Lifoifoi, Benjamin T. Manglona, David Q. Maratita, Donald B. Mendiola, James M. Mendiola, Felix R. Nogis, Justo S. 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.

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

(Applause).

PRESIDENT GUERRERO: Article 2 passed on second reading with 25 votes.

DELEGATE HOCOG: Mr. President.

PRESIDENT GUERRERO: Yes, Mr. Floor Leader.

DELEGATE HOCOG: I would like to effectuate a motion to pass Article 3, Executive Branch, as amended on second and final reading.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to pass Article 3, Executive Branch on second and final reading.

Discussion? If not, Con-Con clerk, roll call.

{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 DLR. Gonzales Herman T. Guerrero,

Victor B. Hocog, Henry U. Hofschneider,
David L. Igitol, Jose R. Lifoifoi,
Benjamin T. Manglona, David Q. Maratita,
Donald B. Mendiola, James M. Mendiola,
Felix R. Nogis, Justo S. 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.

CONVENTION CLERK: Mr. President, we have 25
members voting yes; 2 members absent.

(Applause).

PRESIDENT GUERRERO: Article 3 passed second and
final reading by 25 votes.

DELEGATE HOCOG: Mr. President, I would like to
effectuate a motion to pass Article 4, section 16 which
covers the Civil Service for the second and final
reading.

(The motion was seconded).

PRESIDENT GUERRERO: It is Article 3. It is
Article 3, section 16.

DELEGATE HOCOG: Article 3 or Article 4? Article
3 rather. I stand corrected.

PRESIDENT GUERRERO: On Civil Service. It has

been moved and seconded.

MR. WILLENS: Let me just raise a question for the chair.

The last motion did consider Article 3, that is all the sections that had been considered by the Committee of the Whole which did include section 13 on Education and section 16 on Civil Service.

DELEGATE HOCOG: I was trying to get back there.

MR. WILLENS: But it did not include section 17 which is still within the jurisdiction of the Committee and that should be made clear. So it is up to the chair and the Floor Leader to decide whether any further votes are required.

DELEGATE HOCOG: Mr. President, I think I am in line with that, but because we are taking the passage of that on the section that we have concern -- because there are sections that are amended and there are sections that are not amended. So I am particularly focusing my motion to the Executive Branch article that was amended and I will come back to have those sections passed, like section 13 and section 16 which is what I am doing now.

Or if this is not in order, Mr. President, I would like then to ask the legal counsel what the first

motion is.

PRESIDENT GUERRERO: The motion that you stated earlier is to pass Article 3 --

DELEGATE HOCOG: Yes, Mr. President.

PRESIDENT GUERRERO: -- For final reading.

DELEGATE HOCOG: Yes, Mr. President, that is very correct but since we addressed sections on the Committee of the Whole on the separate issue, that is why I am making the motion as amended. There are areas there on the particular section that was never amended.

If that is inconsistent then I would like to make this motion now. If it is consistent with the motion to pass all sections then I believe we have had a vote already.

I would like legal counsel to respond on that for clarity. We don't want to be passing something here when it is not really passed by this Convention.

MR. WILLENS: Yes, I think that is a fair question by the floor leader. I think the question is whether there is any delegate in the room of the 25 who voted affirmatively who want a separate vote taken on either section 13 or section 16. If anyone wants a separate vote on any of those sections raise your hand and that

would be a separate vote. At least that would be the advice of counsel.

That suggests, Mr. President, there is enough interest in having a separate vote on section 13 and Section 16. Mr. Floor Leader, you are correct.

PRESIDENT GUERRERO: Let's proceed with that arrangement.

Let's vote on Article 3, section 16 as you proposed.

DELEGATE HOCOG: Yes. I think even if we assume that we have voted on the entire section, Article 3, I believe for certainty, Mr. President, we should go and vote accordingly.

PRESIDENT GUERRERO: And I agree with you. Let's proceed.

DELEGATE HOCOG: Thank you. I have a motion on the floor now.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to pass Article 3, section 16 which is previously known as Article 20 on Civil Service.

Discussion?

DELEGATE HOFSCHEIDER: Clarification.

PRESIDENT GUERRERO: Yes, Delegate Hofschneider.

DELEGATE HOFSCHEIDER: If any of the 2 sections in question fail the vote would that be considered as back to the original Article, Article 20? Would that go back to Article 20?

MR. WILLENS: Yes. The answer is yes. We are now voting on second reading which requires two-thirds affirmative vote and you are voting to amend the Constitution in the way in which the Committee has recommended and has been discussed by the Committee of the Whole.

So it certainly is my view that any individual section of the statutory requirement of two-thirds majority has to be met.

DELEGATE HOFSCHEIDER: One more clarification, when the Chair of the Committee of the Whole reported to the president he reported Article 3 itself in its entirety. When the chair addressed voting on Article 3 it voted 25 yes and zero no. That was the report of the Committee of the Whole.

MR. WILLENS: Yes, that is so. But as evidenced by the floor leader's motion and indication some of the members of the Convention wished to have a separate vote on those individual sections and they may not have been fully aware that the whole package was revoted

on. I think the procedure that the Floor Leader has put into place is the appropriate way to ascertain the sentiments of the Committee of the Whole.

DELEGATE HOFSCHEIDER: No objection. I am just clarifying that report.

PRESIDENT GUERRERO: Delegate Maratita.

DELEGATE MARATITA: When Delegate Hofschneider mentioned that we voted on Article 3 in its entirety would that mean that section 17 is part of Article 3?

MR. WILLENS: I have made clear at least three times today that section has not been reported out of any Committee in this Convention and it is undergoing consideration from the Committee. So there is no question that is reserved.

DELEGATE HOCOG: Mr. President, I would like then to withdraw my motion and Article 3 is or has passed the Convention on its entirety as amended

(The motion was seconded).

DELEGATE T. ALDAN: Objection. We are talking about entirety.

DELEGATE HOCOG: The discussion in the Committee of the Whole is reported out.

PRESIDENT GUERRERO: What is discussed in the Committee of the Whole is Article 3 that is reported

out by the Committee by the Committee on Executive and Local Government. Also they entertained Article 15 which is reported on by the Committee on the Judiciary and Article 20 which was reported out on the Committee on the Judiciary.

The motion, they are all adopted by the Committee of the Whole.

DELEGATE HOCOG: That is correct. Let me just make a point of clarification, Mr. President. See, when we have the Committee of the Whole, we discussed the matters of various committees. Now, we are under the assumption that the Judicial Committee is reporting the Education and in essence education is being transferred to Article 3. So that is why my motion is in order.

Is that correct, Mr. Counsel.

MR. WILLENS: You are managing -- I can't keep up with you Floor Leader. You simply move to quickly for me.

DELEGATE HOCOG: Can I move for a short recess?

PRESIDENT GUERRERO: Short recess.

(Recess taken from 4:25 p.m. to 4:33 p.m.)

PRESIDENT GUERRERO: The plenary session is now back to order.

Please, sit down. Let's continue.

DELEGATE HOCOG: Yes, Mr. President, I would like now to effectuate a motion to pass Article 4, Judicial Branch on its second reading, second and final reading; Article 4.

(The motion was seconded).

PRESIDENT GUERRERO: Are we resolved with Article 3?

Let's entertain Article 4 and we will come back to Article 3.

DELEGATE MARATITA: The vote was taken already.

DELEGATE HOCOG: Please, trust the Floor Leader. He knows what he is doing.

PRESIDENT GUERRERO: It has been moved and seconded to pass Article 4 on final and second reading. Discussion?

Con-Con clerk, roll call.

{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 DLR. Gonzales, Herman T. Guerrero, Victor B. Hocog, Henry U. Hofschneider,

David L. Igitol, Jose R. Lifoifoi,
Benjamin T. Manglona, David Q. Maratita,
Donald B. Mendiola, James M. Mendiola,
Felix R. Nogis, Justo S. 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.

CONVENTION CLERK: Mr. President, we have 25
members voting yes. Two members absent.

PRESIDENT GUERRERO: Article 4 passes on second
and final reading.

(Applause).

DELEGATE HOCOG: Mr. President, I move now to pass
Article 5 regarding Washington Rep on its second and
final reading.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and
seconded to pass Article 5 on second and final
reading.

Discussion? If not, Con-Con clerk, roll
call.

{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 DLR. Gonzales, Herman T. Guerrero, Victor B. Hocog, Henry U. Hofschneider, David L. Igitol, Jose R. Lifoifoi, Benjamin T. Manglona, David Q. Maratita, Donald B. Mendiola, James M. Mendiola, Felix R. Nogis, Justo S. Quitugua, Joey P. San Nicolas, Teresita A. Santos, Bernadita T. Seman, Marylou Ada Sirok, Helen Taro-Atalig, Lillian A. Tenorio, Joaquin P. Villagomez.

NO: Juan S. Tenorio.

CONVENTION CLERK: Mr. President, we have 24 members voting yes; one member voted no and two members absent.

PRESIDENT GUERRERO: Article 5 passed on first reading by 24 votes -- excuse me. Second and final reading.

DELEGATE HOCOG: Mr. President.

PRESIDENT GUERRERO: Yes.

DELEGATE HOCOG: That concludes the order of the day.

DELEGATE V. ALDAN: Privilege.

PRESIDENT GUERRERO: State your privilege.

DELEGATE V. ALDAN: Mr. President, you know when we voted that Article 3 there were some members that are not sure actually whether we are voting for the entire Article 3. No mention was made.

DELEGATE HOFSCHEIDER: Point of information. I reported the articles out as Article 3, section 13 and Article 3, section 16 and even the chairman of the Committee of the Whole said that.

DELEGATE V. ALDAN: I want to state my vote. I am changing my vote on education to no.

PRESIDENT GUERRERO: It is already a done deal so it is not going to be changed. Pursuant to Public Law 9-18, once you declare your vote and pursuant to our rules once you declare your vote and the chair announced the votes, it cannot be changed.

DELEGATE JUAN S. TENORIO: Can I move to reconsider?

(The motion was seconded).

DELEGATE FLEMING: It has to be unanimous.

PRESIDENT GUERRERO: I think to reconsider immediately requires a unanimous consent. If you want to change it, you need to give notice to reconsider

Article 3 as passed by the Convention. Pursuant to our rules.

If you delegates look at the Committee reports that are submitted and passed out to all the members, the Executive Branch and Local Government Committee, Article 3, the actual language, includes all those sections in there.

Just because the other Committee deliberated on what was originally their jurisdiction, you actually voted for this thing.

Yes, Delegate Mendiola, Donald.

DELEGATE D. MENDIOLA: Thank you, Mr. President.

I believe you stated that you have to get unanimous consent of all the members present in the chamber. If there not more than 99 percent, it is impossible to get unanimous consent because unanimous means to get everybody's consent. Every single delegate means unanimous. So one person saying no will not give that unanimous consent.

Thank you.

PRESIDENT GUERRERO: Delegate Maratita.

DELEGATE MARATITA: I was going to ask you how many of those want to revote again. You only asked three.

DELEGATE HOCOG: I don't know what is the procedure.

PRESIDENT GUERRERO: Mr. Floor Leader.

DELEGATE HOCOG: I need guidance from the legal counsel. A bill or proposal that has been passed on first and second and final reading without any decision on the floor what procedural step could be taken to put back what was done on the floor on the same day.

MR. WILLENS: Mr. Floor Leader, our rules speak to that subject, Rule 50 addresses reconsideration in the Convention, and it says that any question finally adopted or rejected by the Convention may be reconsidered on the motion of any delegate at any time before the Convention adjourns but no question can be reconsidered more than once except when reconsideration is moved by Committee on Organization and Procedure or approved by two-thirds of the delegates. The critical point is this: A motion to reconsider in the Convention may not be called up until the second session day after it is moved and shall require an affirmative vote of a majority of delegates to the Convention. So if one of the delegates wants to move to reconsider, today could be the first day and then it would require an affirmative vote of the majority of

the delegates in order to bring the matter back before the Convention for a vote. That is what our rules provide, Mr. Floor Leader.

PRESIDENT GUERRERO: Delegate Tenorio.

DELEGATE JUAN S. TENORIO: I would like to make a motion on Article 3, sections 13 and 16.

(The motion was seconded).

PRESIDENT GUERRERO: The question is not necessary. Do we need to vote on that?

MR. WILLENS: That is a motion to reconsider and under the rules you do not have to vote on it.

PRESIDENT GUERRERO: We don't need to vote on it until day after tomorrow.

DELEGATE JUAN S. TENORIO: Can we consider that today?

DELEGATE HOCOG: Even if we move to reconsider today our action will be.

PRESIDENT GUERRERO: You still need two-thirds.

MR. WILLENS: No. You can move today and reserve voting to tomorrow at which time it will require an affirmative vote. If you want to suspend the rules and have a vote today technically you have to move by majority to suspend the rules and vote today. It might be best to follow the rules, leave this on the agenda.

PRESIDENT GUERRERO: We need to pause to change the tape.

(Brief pause).

PRESIDENT GUERRERO: Delegate Nogis.

DELEGATE NOGIS: Before I move to suspend the rules and vote the issue, would you kindly enlighten the delegates as to the consequence of what we are undergoing so everybody understands the repercussion of our action.

PRESIDENT GUERRERO: His motion is basically to reconsider only two sections of Article 3 and that is sections 13 and 16. He has given notice that we don't need to vote unless he wants to suspend the rules but his motion is just for reconsideration at this time.

DELEGATE NOGIS: So with that, I am moving to suspend the rules and address the issue. Vote on it now so we can get it out of the way.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved to suspend the rules. Discussion.

Delegate Aldan.

DELEGATE T. ALDAN: Mr. President, I thought all along when and if one Committee completes each work it is referred in this case, should it be referred to the

Executive Branch Committee for further consideration and therefore the Committee has not signed this report, the final report and I would like the chairman to consider withdrawing that motion so that we can look at it and sign the report before it is adopted on second and final.

PRESIDENT GUERRERO: Delegate Aldan, if you are making reference to this report and if you look at the language that is attached to it you did sign this report. So you did agree to those things. The Committee on Executive Branch agrees to this to be included, section 13 and section 16.

DELEGATE J. MENDIOLA: Play that tape back.

DELEGATE T. ALDAN: The Committee never considered that because the Judiciary just reported this out today as its final report.

PRESIDENT GUERRERO: Delegate Hofschneider.

DELEGATE HOFSCHEIDER: I think we should note that we are not subcommittees of the Executive Branch Committee. We are a substantive committee and the report states that under the Executive Branch Committee report section 13 and 16 will be incorporated from our Committee.

PRESIDENT GUERRERO: We certainly have a problem,

because the Executive Committee members signed off on this document which they agreed to and for them to negate now -- let's vote on the motion to suspend the rules.

Those in favor to suspend the rules please raise your hands. Raise it higher, please, not under the table.

PRESIDENT GUERRERO: The motion is to suspend the rules of the Convention which requires a simple majority to entertain a motion to reconsider.

DELEGATE HOCOG: Mr. President, privilege.

PRESIDENT GUERRERO: State your privilege.

DELEGATE HOCOG: I think it is getting complicated for the members. Delegate Tenorio requested for reconsideration and I think the delegates want to reconsider this issue by tomorrow. So why suspend the rules today?

DELEGATE NOGIS: That was a motion I made, Mr. President.

PRESIDENT GUERRERO: There is a motion and it is still valid unless the mover decided to rescind his motion. So we still need to vote on that motion.

Delegate Nogis, do you want to withdraw your motion?

DELEGATE NOGIS: No, Mr. President, I don't want to withdraw the motion.

PRESIDENT GUERRERO: So let's vote on his motion. Those in favor to suspend the Convention rules so we may entertain reconsideration, the motion to reconsider please raise your hand.

Those who oppose?

PRESIDENT GUERRERO: Motion defeated.

DELEGATE HOCOG: Mr. President.

PRESIDENT GUERRERO: Yes, Mr. Floor Leader.

DELEGATE HOCOG: I would like now to suspend Item 11 of our business and go to Item 12.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to suspend Item 11 of the order of business and move to Item 12.

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

Motion carried.

DELEGATE HOCOG: Mr. Chair I would like to move to adjournment, subject to the call of the chair.

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

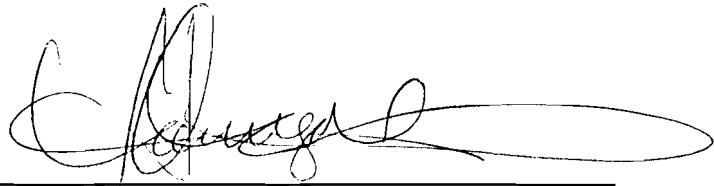
Those in favor of the motion say "Aye."

Those opposed say "Nay."

Motion carried. Meeting is adjourned.

(The Convention adjourned at 4:50 p.m.)

Respectfully,

A handwritten signature in black ink, appearing to be "C. [unclear] D.", written over a horizontal line.

Convention Secretary