THIRD NORTHERN MARIANA ISLANDS CONSTITUTIONAL CONVENTION

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FIFTY-FIFTH DAY

Saturday, July 29, 1995

PRESIDENT GUERRERO: The 55th date of the Third Northern Marianas Constitutional Convention is called to order.

Please stand for a moment of silence.

(Moment of silence.)

PRESIDENT GUERRERO: Thank you.

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We'll move to item 2, preliminary matters,

As a reminder, those people that are objecting in terms of being appointed to the Post-Convention Committee might be the first ones I'll appoint, so be open.

We'll move to item 3.

Con-con clerk, roll call please.

CONVENTION CLERK: Mr. President, 23 members present and four members absent.

PRESIDENT GUERRERO: Thank you.

Delegate Taitano is still sick.

Delegate Hofschneider has requested to be excused.

He has family matters to attend to on Guam.

I believe we move on to item No. 4.

Before I recognize the Floor Leader, do we have any

we have permitted children and grandchildren to acquire land by inheritance or by gift.

This means that you can give land to your kids or you can leave land to your kids by inheritance, no matter what percentage Northern Marianas descent they may be.

Second, we have changed the rule about spouses.

Under the new language, spouses may inherit land as provided by law. This will allow the Legislature the flexibility to decide in great detail which spouses can inherit and which ones cannot. The Legislature will be able to correct any abuses that occur by changing the law. The Constitution will permit spouses to inherit if the Legislature permits them to inherit. We decided to leave it at that.

As to section 3, we made no changes to the language that was presented on first reading.

We will finish section 4, section 5, and section 6 at our meeting tomorrow, hopefully. The meeting is open to everyone, so please come.

We will report Article 12 to the Committee of the Whole and to the plenary session on second reading on Monday.

We will also have a revised report by Monday reflecting our changes.

Thank you, Mr. President.

PRESIDENT GUERRERO: Thank you, Delegate Lifoifoi.

I now call on the Chair of Committee on Legislative

Branch and Public Finance Committee, Delegate Tomas Aldan.

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

I'm just waiting for the sine die of the Committee because we finished all of our work. Maybe we will sine die at the same time as the Convention.

Thank you.

There is nothing to report.

PRESIDENT GUERRERO: Isn't it your committee that handles transitional matters?

DELEGATE TOMAS B. ALDAN: That's the last one that we're still waiting for to be put on the agenda.

PRESIDENT GUERRERO: Thank you.

Delegate Felix Nogis, the Chair on Executive Branch and Local Government.

DELEGATE NOGIS: Thank you, Mr. President.

I'm honored to report to you that as a result of our meeting yesterday from with fellow Delegates from Rota and Tinian it seems that there is a compromised version with regard to the local government.

I see that it is on the agenda and, hopefully, we will proceed with that under Article 6.

At that time, we will discuss Article 3, section 17 for second reading and the Article 19, Commonwealth unity.

That's it, Mr. President. Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Nogis.

I call on the vice chair of the Committee on Judiciary and Other Elected Offices, Delegate Donald Mendiola.

DELEGATE DONALD MENDIOLA: The Committee on Judiciary and Other Elected Offices, has two articles to report on second reading.

First, Article 9: Initiative, Referendum, and Recall.

Ofrcourse, the second is Article 18:

Constitutional Amendment and Mutual Consent. We've not been able to meet to consider the proposed Delegate amendments to these articles.

Our Chair, Delegate Hofschneider, has been called away by family members. The Executive Branch Committee has had urgent meetings on local government and the Land Committee has had urgent meetings, of course, on Article 12. Every Delegate has been busy.

What I would like to do is go ahead with a discussion of these two articles today in the Committee of the Whole.

I would like to propose the amendments that the Committee is considering, or Delegate Hofschneider will do so, if he's back from his family call, and the Convention can call on him.

If we are united in the Committee of the Whole, we can vote on these things in the plenary session today. If we're

not, you can send these matters back to our Committee. I will take them up at a meeting on Monday morning. I think that is the best way to deal with these articles so we don't hold up any of the Convention agendas.

Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Mendiola.

I think it's in the best interest of the Convention if we address whatever amendments are being proposed to those articles at the Committee of the Whole today rather than send it back to the Committee.

The fact is, you're having difficulty with establishing a quorum. We're basically discharging you from these duties.

DELEGATE DONALD MENDIOLA: Thank you.

PRESIDENT GUERRERO: Thank you, Delegate Mendiola.

We move now to introductions of Delegate Amendments.

Any amendments?

Delegate Tomas Aldan.

DELEGATE TOMAS B. ALDAN: I do have a Delegate amendment, Amendment No. 24, amending the Constitution by popular initiative. I have Amendment No. 25 regarding constitutional amendment by Constitutional Convention. Amendment No. 26 amends the mutual consent. Amendment 27 amends the ratification.

Thank you, Mr. President.

PRESIDENT GUERRERO: Thank you, Delegate Aldan.

Any other members?

If not, we move on to motions and resolutions.

Any motions or resolutions that need to be brought

up?

Delegate Borja?

DELEGATE BORJA: No, Mr. President, I have none.

- PRESIDENT GUERRERO: You are not giving any notice for reconsideration or anything?

DELEGATE BORJA: No. I think I'll do that Monday.

Thank you.

PRESIDENT GUERRERO: Thank you.

We move to unfinished business. We don't have any. Special orders of the day.

Mr. Floor Leader.

DELEGATE HOCOG: Mr. President, I move to resolve into the Committee of the Whole to discuss Article 6: Local Government; Article 9: Initiative, Referendum, and Recall; Article 12: Restrictions on Alienation of Land; Article 17: Ethical Standards; Article 18: Constitutional Amendment and Mutual Consent; and, Article 19: Commonwealth Unity.

Thank you.

PRESIDENT GUERRERO: Any seconds?

(The motion was seconded.)

PRESIDENT GUERRERO: It has been moved and seconded to

resolve into the Committee of the Whole to entertain Article 6:
Local Government; Article 9: Initiative, Referendum, and
Recall; Article 12: Restrictions on Alienation of Land;
Article 17: Ethical Standards; Article 18: Constitutional
Amendment and Mutual Consent; Article 19, Commonwealth Unity.

Discussion?

DELEGATE VICENTE ALDAN: Thank you, Mr. President.

I thought the Chair for the Article 12 requested that we calendar that Article 12 until Monday.

DELEGATE HOCOG: Mr. President, I think it's worth discussing the sections that the Committee has completed or addressed. That would be in order.

PRESIDENT GUERRERO: It's only for discussion purposes.

Any other discussion?

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

Those opposed say "Nay."

Motion carried.

At this time, I would like to appoint once again our good chair for the Committee of the Whole, Delegate Joaquin Villagomez to preside.

DELEGATE VILLAGOMEZ: Thank you, Mr. President.

Five-minute break?

PRESIDENT GUERRERO: Three-minute break.

(A recess was taken 2:05 P.M. to 2:19 P.M.)

CHAIR VILLAGOMEZ: The Committee of the Whole will now

convene.

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Before we get down to our agenda, I want to announce that the Committee on Land and Personal Rights meeting that is scheduled for tomorrow is cancelled pursuant to Chairman Lifoifoi. You will be notified of the next meeting.

We're going to discuss Article 6 first. I call on the Chair, Delegate Felix Nogis.

DELEGATE NOGIS: Thank you, Mr. Chair.

In an effort to maintain unity, and for the Constitutional Convention to move forward on issues, we have negotiated with our colleagues, as I mentioned before.

As a result of our meeting this morning, Mr. Chair, the Committee on Executive Branch and Local Government approved the maintenance of status quo on section 17, Article 3.

Therefore, I would like to move on with Article 6 per the Committee's recommendation.

In light of the Committee's decision on section 17, Article 3, section 3 of Article 6 has been revised to make certain that each of the mayor's powers presently listed is included in the recommended section 3. For the convenience of the Delegates, the current version section 3 of the article is attached to this report.

In addition, sections 3 and 4 have been modified to provide for the appointment of an Executive Assistant for the Northern Islands under the mayor of Saipan and for an ex officio

member of the municipal council elected by the residents of the Northern Islands at such time that the council becomes a full-time position.

With that, Mr. Chair, I move for the Convention to adopt this report for first reading.

Thank you.

(The motion was seconded.)

CHAIR VILLAGOMEZ: It has been moved and seconded that Article 6 be adopted by the Convention on the first reading.

Any discussion?

Go ahead, Delegate Hocog, and then Delegate Tom Aldan.

DELEGATE HOCOG: Thank you, Mr. Chairman.

I think I heard our good chairman say that he was honored to reach this understanding. First, I would like the Delegates to know that we are not honored as the delegation from Rota and Tinian.

We have tried and attempted, Mr. Chair, to strengthen our local government, particularly on section 17.
All attempts that the delegation intended to do failed.

To avoid undue deliberation in this Committee regarding this particular article and section, I would like to raise a question to our legal counsel to provide the delegation, or the members of this delegation, the legal ramification of the action that we are just about to take.

I believe, Mr. Chair, that we have no other alternative after yesterday's meeting but to submit ourselves for status quo.

My question today before the Committee of the Whole -- we have decided to elect the status quo option on local government and what effect would that constitute electing to remain status quo?

From my personal view, I have seen changes in Article 6. Wouldn't that, in itself, be a violation of what we term status quo?

I would like to hear legal counsel before we pursue the discussion on Article 6 on local government.

CHAIR VILLAGOMEZ: Thank you, Delegate Hocog.

I call on Mr. Howard Willens to respond, and then, perhaps, the Chair would like to respond.

MR. WILLENS: Yes, Mr. Chair and Mr. Floor Leader.

The proposal before the Committee of the Whole with respect to local government brings before you two conclusions by the Committee: First, section 17 of Article 3 remains intact with exactly the same language there that is presently in the Constitution.

In addition, section 3 of Article 6, which sets forth the powers of the mayors, is in exactly the same terms so far as it relates to the mayor's responsibilities for administration of Commonwealth programs, services, and

appropriated funds.

If the Committee of the Whole and the Convention makes no changes in section 17, then it is my judgment that section 17 and the relationship between the local government and the Commonwealth government will remain unaffected by the action of this Convention.

Maintaining the status quo represents an informed judgment by the Delegates of this Convention. Although there are strongly held views on this issue, the Convention concluded that the wisest course of action was to leave the situation as it is for the Governor and the mayors to work out over time exactly what authorities and powers are delegated to the mayors by the Governor and under what terms.

That represents a political judgment. But it is my legal judgment that it is the Committee's intention not to bring about any change in the present situation with respect to the relationship between the Commonwealth government and the mayors with respect to the delivery of Commonwealth services.

Now, with respect to the other changes to Article 6 that the Floor Leader makes reference to, there are, indeed, changes to Article 6.

But those changes, including some enlarged powers for the mayors, as well as the enlarged authority of the municipal council, are designed only to affect those powers of the local government that are truly local in nature.

Article 6, as it has been worked on by the Committee, does provide for an enlarged and strengthened local government to deal with local matters, and it is my judgment that those changes in Article 6 will strengthen local government, but they will in no way alter its relationship with the Commonwealth government.

I should make one important point that there may be an exception to that proposition. The Committee recommends, and the Convention has acted, to delete section 6 of Article 2, which previously gave to the legislative delegations of the Commonwealth legislature the authority to enact local laws.

The legislature no longer has that power. That power is now given to the municipal ordinance authority of the council, subject to the veto power of the mayor.

It's important to realize that there are, indeed, changes in Article 6, but they are designed to strengthen the authority of local government.

CHAIR VILLAGOMEZ: Go ahead, Delegate Hocog.

of electing the status quo, I was led to believe that there is no change and what it is today under Amendment 25 remains untouched.

Now, my other question is that we are making changes whether it is for more or for less. We are voting on an article that does have an effect on certain sections of that

particular article. That is what I'm driving at.

What legal argument do we have in the future should it be questioned?

I believe that the status quo supposedly meant unchanged, unless my perception of status quo is different from the real definition of status quo.

CHAIR VILLAGOMEZ: Go ahead, Mr. Willens.

MR. WILLENS: Mr. Floor *Leader, your question suggests something to me that we can explore further.

When the Convention decides not to change a certain provision of the Constitution, there is, typically, no legislative history on that point.

What we can do here, is make clear in the legislative history with respect to section 17, that after consideration of the matter, the Convention concluded to retain it in its present form and to bring about no change whatsoever in the subject matter governed by section 17.

We can do that both with respect to section 17 and with respect to those provisions of Article 6 that relate to Amendment 25 of the 1985 Convention.

I think that might put to rest any question that could be raised in the future that by the action of this Convention it intended to bring about some change with respect to this subject matter.

I think that a conclusion by the Convention that

that is what you are doing and have it reflected in the legislative history would prevent the argument in the future to be found persuasive that any change was intended.

CHAIR VILLAGOMEZ: Go ahead.

DELEGATE HOCOG: Mr. Chair, what I'm saying here is that under this article, we are taking away the power of the senatorial legislative delegation, and by virtue by opting status quo, I. would like to think that the vested authority of the Rota legislative delegation would remain intact in such article that relates to local government.

I'm afraid that having to pass these changes within the section will one day be challenged for taking away the authority when the delegation decided to stay with the status quo provision under Article 6 of the section.

Would it then be the intent of the 1985

Constitutional Convention per section does have connection to the other sections?

And if that is so, with these changes we are not actually electing the status quo provision under section 6.

It's a question I need to understand that requires legal opinion so that it will sustain the test of time whenever that time comes.

CHAIR VILLAGOMEZ: Mr. Willens, do you wish to make additional statements?

MR. WILLENS: Yes, Mr. Chair.

One observation on that point: It is true that

Amendment 25 that resulted from the 1985 Convention did seek to

amend section 6 dealing with municipal councils in the present

Constitution, but some of what Amendment 25 did was subsequently

amended by Legislative Initiative 1, which was ratified in 1987.

So to some extent, what we are presently dealing with is a section of Article 6 that does not reflect all of the actions taken by Amendment 25, because it was subsequently found to be deficient in certain respects that were approved by the people.

So it was the judgment of the Committee, and the Committee members can speak to this, because it was extensively discussed in earlier meetings, that you want to enhance the powers of municipal councils. The desire was to have the have the municipal councils have the legislative authority to enact local laws rather than the legislative delegation of the Commonwealth Legislature.

The conclusion of the Committee was that if you had both the municipal councils enacting local laws and the Commonwealth legislature, you would be inviting conflict.

The choice of the Committee was a political judgment, not a legal one, to fix authority in the local municipal councils.

DELEGATE HOCOG: I thought, Mr. Willens, that opting for the status quo provision and eliminating Amendment 25, I was led

to believe that all provisions under Amendment 25 would be transferred under Article 6 with no change.

I appreciate the added responsibility and power. I am just concerned whether we will in the future have court litigation with the action that we are just about to take. That is my concern.

If it does not, that then we can proceed. If it does, that is something that we have to consider.

Are we really acting on our work to do and make things right, or are we just circumventing what was intended to be compromised to proceed with the Committee?

CHAIR VILLAGOMEZ: Thank you, Delegate Hocog.

Go ahead, Delegate Tom Aldan.

I would like to give the opportunity to the Delegates from Tinian and Rota to raise your hand if you are interested in speaking.

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

I'm hearing and I'm not listening at the same time because of what was discussed yesterday.

My understanding is status quo on section 17 and status quo on Article 6, section 3 as it affects the duties and responsibilities of the mayor. That is what is in place.

Now, I don't think there would be any lawsuits or actions brought against what we're going to decide if it's clearly in the Constitution that that is what we wanted.

If it's not clear, if we're not reflecting the decision of my good Delegate from Rota, I would suggest that maybe you make a motion to defer action so that we get a clarification.

I must remind my good Delegate that there are provisions in Article 6 that we would like to change, No. 1, with respect to the mayor of the Northern Islands; and, No. 2, the composition of the councils. I would like to see those changed.

Now, if the Delegates from Rota and Tinian do not want any changes with respect to the local government activities and organizations, then maybe we should defer it and look into it further.

I was looking at the signature page. I'm surprised to see that the good Delegate from Rota signed "with great reservation," and the Delegate that was present during the meeting did not sign it.

I thought we addressed what is needed to be addressed in good faith. We did not hear these objections when we discussed this during the meeting.

Rota is not present as it is being submitted to the Committee of the Whole, I honestly think that maybe the motion to defer for further discussion is in order.

Thank you.

CHAIR VILLAGOMEZ: This is the lineup:

Delegate Maratita, Delegate Nogis, the President,

Delegate Hocog.

Go ahead, Delegate Maratita.

DELEGATE MARATITA: Thank you, Mr. Chair.

My perception of what I hoped to have been accomplished as far as the status quo, is that the differences over the public services and enforcement of Commonwealth laws as regards section 17, as presently written, under that provision, that is agreed that it remain as is, status quo.

It was my hope that under Article 6 on local government, that we strengthen that and allow for the municipal council to be empowered to enact ordinances and the procedures on how these ordinances are going to be enacted.

In addition, we're giving ourselves the relationship between the mayor and the local council regarding local matters. That is being defined under this particular section.

As to the powers enumerated in Article 6, under the so-called Amendment 25, they are still contained in there under —the old provision of Amendment 25, but we are adding more powers of the mayor.

If we are not going to refer the powers of the local delegation, then we have to reconsider Article 2, section 6, on local laws.

If we are not going to address that particular section in Article 2, then there is going to be a conflict, because we have already passed Article 2 on second reading.

DELEGATE MANGLONA: Mr. Chairman, may I call for a short recess?

DELEGATE MARATITA: Mr. Chair, I hope that we shall reach some understanding on this.

I personally want to see local government, as far as Tinian concerned, be strengthened for the municipal council to have powers to enact ordinances and all that.

CHAIR VILLAGOMEZ: We'll take a five-minute break.

(A recess was taken from 2:44 P.M. to 2:57 P.M.)

CHAIR VILLAGOMEZ: The Committee of the Whole reconvenes.

I would like to call Delegate Hocog to report on the short meeting.

DELEGATE HOCOG: Mr. Chair, I guess I have raised a concern, and legal counsel will take that and reflect it into the history of this proposed amendment and status quo on certain sections of Article 6. To avoid the Committee members, as well as the Delegates, to stall the session, future sessions, we have decided to go ahead and entertain Article 6 today.

CHAIR VILLAGOMEZ: Okay.

(Applause.)

CHAIR VILLAGOMEZ: Any more discussion on the main motion?

Prior to the break there was a lineup.

I call on the Chair. The next one is the President, Delegate Hocog, Delegate Joey San Nicolas, and Delegate Aldan.

Go ahead, Mr. Chair.

DELEGATE NOGIS: I changed my mind. I will yield to the next speaker, Mr. Chair. My concern was answered by Delegate Hocog.

Go ahead, Mr. President.

PRESIDENT GUERRERO: I think I yield to the next person, also, Mr. Chair. I think my question has been answered.

CHAIR VILLAGOMEZ: Delegate Hocog.

I would like to call Delegate Benjamin Manglona.

DELEGATE MANGLONA: Thank you very much, Mr. Chair. I appreciate the full understanding of the Delegates pertaining to this issue that we are discussing now.

Let me see if I can dispel some of the fear that the mayor is stronger than the Governor. I would like to strongly say that regardless of what our position is on local government, the Governor being the head of our chief executive branch is the strongest.

Under Amendment No. 25, the Governor has a stronger power than the mayor on our islands.

Amendment 25 does not allow the mayors of Rota and Tinian run the island the way they like. Rota and Tinian are

not semi-independent states.

On the contrary, mayors do not make laws. Mayors do not appropriate funds. Mayors do not appoint boards, authorities, and commissions.

Mayors do not promulgate policies, standards, rules, and regulations. Mayors do not disburse funds.

As Amendment 25 clearly states, mayors carry out laws made by the central government. Amendment 25 directs mayors to carry out the laws, policies, rules, and regulations of the central government.

Amendment 25 works. It has served the public and the Commonwealth well for nine years. Accountability for executive performance is where it should be at the local level.

Recently, Amendment 25 came under attack.

Amendment 25 provides a good balance between the Governor and the mayors for the delivery of public services on Tinian and Rota. As always, the Governor's powers are the strongest.

In contrast to the Governor's strong powers over many government agencies on Rota and Tinian, the mayors, in accordance with Amendment 25, only directly administer a few agencies.

The mayors only administer agencies like the Department of Public Works, Health Services, Public Safety, Commerce, Community and Cultural Affairs, Finance, Natural Resources, and Labor and Immigration.

The Governor's power over Rota and Tinian are great. The mayor's powers are less. Mayors may grant administrative leave to employees in local government, but that does not compare to the Governor's power to grant pardons to felons.

Mayors may have administrative powers over a handful, to centralize the department; but unlike the Governor, they don't enjoy the power to reorganize the entire Executive Branch government, and to a lesser degree, the Constitution by executive order.

When all the personal things that have been going on between our islands, still I can say that the Governor is the strongest. Therefore, these are the justification,

Mr. Chairman, that I want to make known so as to dispel fear that the mayor of Rota is the strongest. Believe me, as I said before, the Governor is the strongest. That is my comment in support to that section 17(a), Article 3 in our Constitution.

Let me also comment on section 7 of Article 6. I'm little concerned about the expanded power of the municipal councils that we are proposing now. My strongest worry is the council's inability to fund itself and other local government expenditures. While I would like to see that we expand the power of the council, I'm afraid, and I have to be honest with you, that in Rota I honestly don't believe that we will be ready to take care of local government affairs in five years' time.

Rota at this moment is the least developed island in our Commonwealth. It is our desire that we can entice development into Rota hopefully in the days, months, and years ahead, but quite frankly, the way things are going, economic activities are very slow. That is my greatest fear. I believe that we cannot make it with what is being proposed here. I'm afraid that we may be left without funding to take care of our local government affairs.

My question here, Mr. Chair, and I wonder if the legal counsel could respond to this, what happens in the event that the municipal council is unable to absorb the local government employees after end of the five-year period? Would this new proposal provide flexibility so that the Legislature may come around to bail them out?

CHAIR VILLAGOMEZ: Go ahead, Mr. Willens.

MR. WILLENS: Section 7(b) was the result of extensive Committee discussions on this subject. Section 7(b) does provide for continued Commonwealth funding of local government after the grace period and a further five years --

CHAIR VILLAGOMEZ: Hold on for a change of tape.

(Tape change.)

CHAIR VILLAGOMEZ: Go ahead, Mr. Willens.

MR. WILLENS: After the grace period, which lasts until January 1, 1998, and then the next five years, the Legislature can continue funding of local government after that period of

time, but there are some restrictions and criteria built into section 7(b).

First of all, it requires that they continue funding after that period only to the extent that they match locally raised revenues. That is one limitation.

It also requires that the Legislature find or conclude after public hearings that the local government has made all feasible efforts to raise local resources; secondly, that the local government has reduced the number of government employees compensated by Commonwealth funds; and, thirdly, that the local government has provided justification for its request.

So it does set up a procedure and criteria for continued Commonwealth funding of local services. This did represent a compromise within the Committee, and the Committee members can speak to the reasoning that led them to support this kinds of a section.

CHAIR VILLAGOMEZ: You may continue.

DELEGATE MANGLONA: Would it be possible, sir, to make it optional where, for example, if we feel that we are not ready, can we remain a status quo? Maybe Tinian or Saipan if they can wish to expand their municipal government, they can go ahead and exercise a stronger local government.

Can we decide to exercise an option where to remain status quo or to accept the option to expand the municipal council power.

CHAIR VILLAGOMEZ: You want to make that into motion?

DELEGATE MANGLONA: No. I'm just asking.

CHAIR VILLAGOMEZ: Go ahead, Mr. Willens.

MR. WILLENS: As the Chair suggests, that certainly could be done, Delegate Manglona, if that is what the Committee of the Whole directs, we will provide a direction that reflects your decision. It's up to the Committee of the Whole.

CHAIR VILLAGOMEZ: Before I recognize those that have spoken before, I'll recognize Delegate San Nicolas, the Chair, the President, and then Delegate Aldan.

Go ahead.

DELEGATE SAN NICOLAS: Thank you, Mr. Chair.

When we started talking about local government, the distinguished Delegate noticed that another Delegate signed his name to the proposed amendment and it said "with reservation."

I would like to speak on behalf of that person who signed with reservation.

My dear Delegates, it is the people -- I think we share this feeling -- that it is the people of Tinian and it is the people of Rota who will ultimately feel the ramifications of what we are about to do.

My good Delegate from Rota, of course, wants to scrutinize this thing. So far, he is apprehensive, because it is we who will feel the actions that we are about to do.

It is natural to be cautious. It is natural to

look at every single letter, every single word of what we're about to approve or possibly disapprove.

We are worried about local government. We are the ones who will ultimately feel the final output, the results of what we are doing, and it is because of that that we are cautious. It is because of that that we are scrutinizing everything.

-- Please do not feel a threat from us, but we want to make sure that whatever comes out of our deliberations here, it will suit all of us of the Commonwealth to the best of what we can do.

With that, I would like to say how I feel about the municipal council and their having the authority to enact local legislation.

I for one believe, as the Delegate from Tinian, that it is coming to about that time when we should learn to walk on our own two feet.

It is, of course, very natural to feel that if the necessary funding is not there, where are we going to get it?

I really sympathize with my good Delegates from Rota.

I want to make my situation clear: If it is possible for us to get together and agree on allowing for municipal councils to enact local legislation without hampering what is there in Rota, I'm sure that is the request of

Delegate Manglona, then could we explore that possibility?

Once again, with regard to us looking at every word of what we are doing right now, we are doing that because we want to make sure that whatever compromises we made in the past or whatever decisions we're going to make now, those are going to be the right decisions that we make.

We don't want to make any mistakes along the way.

My good Delegate from Rota wants to make sure that those
mistakes will not come about.

Thank you very much.

CHAIR VILLAGOMEZ: Thank you for your words of wisdom.

Delegate Nogis, the President, Delegate Aldan, and then Delegate Quitugua.

Mr. Chair, go ahead.

DELEGATE NOGIS: Thank you, Mr. Chair.

With that, could you put a motion to the floor so the whole Committee could address Delegate Manglona's concern?

CHAIR VILLAGOMEZ: There is no motion.

DELEGATE NOGIS: Thank you.

CHAIR VILLAGOMEZ: Thank you, Mr. Chair.

Mr. President.

PRESIDENT GUERRERO: Thank you, Mr. Chair.

There is a great compromise that we have achieved on Article 6. There might be merits to what Delegate Manglona mentioned.

The only problem and my concern is that if you put at a status quo, the incentive to move ahead is not great. As a former negotiator for the 702 Covenant funding, he knows that we have to justify also the funding, every penny that we spend with the United States. I think the mechanism isn't here to allow the local government to justify why they have not achieved where they are after going through a series of public hearings.

I don't think that the Legislature after hearing all of this that there is justification for continued funding.

But it's a process. I think it is sort of like a check and balance to insure that the local government is moving ahead and it's also that they're doing good efforts in their part, just like our Covenant fundings are CIP projects.

The United States monitors us as we go along to make sure the funds are expended properly the way it was intended and the way it was submitted by us to the United States to justify the funds.

I believe that the council is necessary to provide certain checks and balances between the mayor and the municipality. It's important that we go ahead with that.

Article 2 regarding local laws. I think that those provisions, those powers that are in there, are being transferred to the municipal council, and it's important that we give it certain powers to insure that the continuity in the local government.

Thank you, Mr. Chair.

CHAIR VILLAGOMEZ: Delegate Aldan.

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

I would like to think that when we read every sentence, every word, every comma and every period that when we talk of "we" in terms of local government it includes the island of Saipan. We will also be the beneficiary of such an article. The local municipal council as dictated under Article 6 includes Saipan and Saipan's Municipal Council's capability to enact ordinances.

Let me reemphasize the words "local government." Do we want local government, local government as it affects each individual senatorial district? Do we want that or do we want it to continue to be a representative of the central government carrying out functions and duties of the central government? That's the question.

Funding in terms of local government means that you establish yourself; you establish a local government in that senatorial district, whether it be on Saipan, Tinian or Rota. Local government means that you start supporting yourself without suggesting under section 7 that we will cease funding for activities, programs and operations in each senatorial district which come from the central government. What is being

suggested here is the funding basically as it is now, or today, the office of the mayor itself and the Municipal Council, period. Because there are no other local government activities there. So let's put that in our mind that if you expand local services pursuant to local ordinances that the local government must fund it.

If you want to increase the size of the office of the mayor from what it is today, five years from now, by all means do it but have the money to pay for it, 50 percent more than what we are going to fund at the end of the seventh year, because that is local government.

Mr. Chairman, I wish that we are clear on this issue of local government versus central government. We are not suggesting that we are going to kill the funding for the activities funded presently by the central government for and on behalf of the central government, not for Saipan, mind you, central government.

So when we speak of every word, every line, commas and periods, parentheses and what have you in local government, it encompasses the entire three senatorial districts of Tinian, Rota, and Saipan.

I would like to state for the record that none, N O N E, none of these delegates have ever brought up the name of Mayor Inos, that we don't like the mayor. Not during any Committee deliberation or plenary session did I hear anyone say the name of Mayor Inos in vain because when we talk of local government we are talking of three senatorial districts and it does not affect only the island of Rota, the island of Tinian, or the island of Saipan, but all three senatorial districts.

I would like to make sure that it is understood for the record that I personally like Mayor Joe Inos. I have known him for several years. I like him personally. I think he is a friend of mine in terms of professional activities. Whenever we meet, we shake hands and we talk a little bit, but I have never once mentioned his name in vain, that these delegates from Saipan don't like him. I also like to think of the word "compromise" as it is evident, we the delegates elected from Saipan, are willing to compromise.

Now, in every compromise one party lays down what he wants or what she wants; the other party lays down what he or she wants. We either accept one end or

the other or we meet in between; that is a compromise. It is not a compromise if you don't want to negotiate. It is not a compromise if you leave your proposal and leave the room.

Please, let's understand each other. We are here to finish this work, and this work requires a lot of time, patience, understanding and most of all the art of compromise must be practiced. But, again, we get directions, and once the Committee of the Whole suggests a route, we can't deviate from that route. But we can still meet between and compromise, and go back and tell them of what we did.

Lastly, Mr. Chairman, I would like to move to make the term of office for the Municipal Council from two to four years.

CHAIR VILLAGOMEZ: Any second?

(The motion was seconded).

CHAIR VILLAGOMEZ: There is a subsidiary motion.

Can you clarify that, Delegate Aldan, your subsidiary motion?

DELEGATE T. ALDAN: Presently, Mr. Chairman, the term of office for the Municipal Council is two years and I would like to make it four years because of the fact that they are part time under section 4(a).

CHAIR VILLAGOMEZ: Okay. It has been moved and seconded that the council's term is four years.

Any discussion on that?

Go ahead Dr. Ben Aldan and Delegate Victor Hocog.

Let me say something. There was a line-up prior to this discussion. I will give the floor to those that have indicated their desire to talk on the main motion after we take care of the subsidiary motion.

Go ahead, Delegate Aldan.

DELEGATE V. ALDAN: Thank you, Mr. Chairman. I would like to urge the delegates to support Delegate Aldan's subsidiary motion.

Let me give you an analogy.

What we are actually doing here is recapitulating one of our greatest stories. It is a legend. What we have is a central government that we call Chief Taga and what we have resurrected is the Son of Taga, Article 6. While we have provided a safety mechanism by creating the Municipal Council and by helping and increasing the term of office for four years, we are going to make sure that the housemate will protect the Son of Taga from Taga.

Thank you.

CHAIR VILLAGOMEZ: Thank you, Delegate Aldan.

Floor Leader, go ahead.

DELEGATE HOCOG: That you, Mr. Chairman.

I don't like to think that the motion is again somewhat ridiculous, but I would like conformity with the present term of the Municipal Council.

We have as delegates voted down the proposed four years for the House of Representatives, and I don't see any reason why we should extend to four years for the Municipal Council.

Mr. Chairman, my fellow delegates, even we today here, we are in this chamber and this house and this work for 55 days and each one of us knows what we are doing. To put again four years' provision for Municipal Council, it is not a good management practice when we have rejected the highest level of public office, the House of Representatives, giving them only two years.

Why should we elect to give the council four years? So that they can make more taxes? One year or two years will do the same. If the council cannot work within two years, it has no business going into the council, period, Mr. Chairman. I urge my delegates to

vote down the proposal made by Delegate Aldan.

Thank you.

CHAIR VILLAGOMEZ: I will give opportunity to those that raised their hand, Delegate Nogis and then the President.

Go ahead, Delegate Nogis.

DELEGATE NOGIS: Mr. Chairman, I have witnessed people that serve on boards that are part-time and serve a four-year term who don't do anything and I find the community helpless to remove those people. You just have to wait for the next four years to elect them out of office. The classic example, Mr. Chairman, is what happened in education. The Board of Education is part-time, yet they are not responsive to the needs of the school or for that matter to the Committee. I think this only breeds complacency in anybody that was voted in.

Thank you, Mr. Chairman.

CHAIR VILLAGOMEZ: Thank you, Chair.

PRESIDENT GUERRERO: Even though the intent is noble, I decline to support it. I don't think we want the mayor to have a nightmare with the same council for four years. There are no two houses to provide certain balance, check and balance like the legislature. So

four years is a little too much. It would be a nightmare if I were the mayor to have the same faces that are totally against me for four years. I cannot accomplish anything and the people will suffer. So even though it is a good intent I will not support it.

CHAIR VILLAGOMEZ: Thank you.

Delegate Tom Aldan.

DELEGATE T. ALDAN: As the main mover, thank you, Mr. Chairman.

I do not agree with the statements being made.

You know, the good chairman said it breeds complacency because of the example of the Board of Education. We are going back and electing the Board of Education at a lower level now. Maybe that will make them more responsive to the community's need. But I have worked with a board. My experience is from the Retirement Board, and I would like to bring up that experience. It is part-time, true. They serve for four years, very true. And they cannot be removed unless it is for cause because of section 1 of Article 3. But they were effective because there is continuity. They know, for a complex issue they have received the necessary training, groundwork,

experience, to know what they were doing as fiduciary members of the board.

Let me give you the dollar meaning of that or the translation into dollars. When I came into the Fund there was only \$3 million, back in 1985. When I left last year there were over \$160 million. That's in dollars. You can't say they were complacent, that they didn't do their job because it was part-time and it was four years. Can you challenge that? You cannot.

Now, in terms of check and balance, there is always check and balance, whether it is for six years or ten years. We have had mayors prior to the limit on two terms. We have had mayors for 20 years. I don't think they were bad. It all depends on who is sitting there. If you are committed to serving the needs of the public, that is, for the constituency you serve, you will be elected every year, whether it is two years or four years. My good delegate from Rota was selected to the Senate maybe four terms, because he represented his people well. He has an impeccable record in the Senate and that is why he continues to be re-elected. So who is to say that four years is bad? You don't have justification for that.

CHAIR VILLAGOMEZ: Thank you.

I think we have had enough debate.

DELEGATE V. ALDAN: It is not ready.

CHAIR VILLAGOMEZ: But I want to recognize Delegate Quitugua since he has raised his hand to talk previously and Delegate Joey San Nicolas. That will be the last and we will vote on a subsidiary motion.

DELEGATE QUITUGUA: Thank you, Mr. Chairman. I honestly wish and hope that the people we entrust with our votes are the people that we truly think will represent us truly once they're elected. I am not concerned, Mr. Chairman, whether they will be able to do their duty as elected municipal council members, but I can assure that you that they will neglect their full-time job over their elected responsibilities. To neglect your job for four years over your elected office, I will say it is going to hurt the people that elected you to the office.

I think two years of hurting your full-time job versus your elected responsibilities I think is enough to make that department really suffer. Giving another two years probably will severely impact the productivity and the operation of that department.

Thank you, Mr. Chairman.

CHAIR VILLAGOMEZ: Thank you, Delegate Quituqua.

Delegate San Nicolas.

DELEGATE SAN NICOLAS: Mr. Chair, I want the record to show that I really like Delegate Aldan. He is a very good friend of mine. We will never have rifts in the future. I know that, and every word, every idea and every proposal that he submits I learn from and because of that, Mr. Chair, I support his proposal for four years.

CHAIR VILLAGOMEZ: Okay. We have a subsidiary motion and so we can get moving on the main motion.

All those in favor of the subsidiary motion to increase the term of the Municipal Council from two to four years say, "Yes."

All those say, "No."

Raise hands.

All those in favor?

Help me out, Clerk, and Bernard and all the others.

Can you call Delegate Sirok? All those in favor raise your hands for the subsidiary motion to increase the two to four. Please raise it up until I tell you to put it down.

Let's have some order.

All those opposed raise up your hand and

don't vote twice.

Roll call.

DELEGATE HOCOG: Mr. Chairman, is there a conspiracy in these subsidiary motions? Mr. Chairman, let's vote for another motion: Those that voted will not run for public office.

CHAIR VILLAGOMEZ: You are out of order. We are going to have roll call.

CONVENTION CLERK: (Counting votes).

DELEGATE SIROK: Oui. That's yes in French.

DELEGATE LILLIAN TENORIO: Yes. For general Aldan's last stand on the floor here.

CHAIR VILLAGOMEZ: Aren't you going to count me?

CONVENTION CLERK: Not yet, Mr. Chairman, you are the last.

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

YES: Delegates Tomas B. Aldan, Marian
Aldan-Pierce, Esther S. Fleming, John
Oliver DLR. Gonzales, David Q. Maratita,
Donald B. Mendiola, Joey P. San Nicolas,
Marylou Ada Sirok, Juan S. Tenorio,
Joaquin P. Villagomez.

NO: Vicente S. Aldan, Frances LG Borja,

Herman T. Guerrero, Victor B. Hocog,

Jose R. Lifoifoi, Benjamin T. Manglona,

Felix R. Nogis, Justo S. Quitugua,

Bernadita T. Seman, Helen Taro-Atalig,

Lillian A. Tenorio.

CHAIR VILLAGOMEZ: So what is the count?

CONVENTION CLERK: We have 10 voting yes; 11 voting no and 6 members absent.

CHAIR VILLAGOMEZ: So the subsidiary motion is defeated.

Thank you. Let's get back to the main motion.

Prior to the subsidiary motion Delegate John Gonzales raised his hand.

Go ahead, Delegate Gonzales.

DELEGATE GONZALES: Thank you, Mr. Chairman.

I would like to comment with regards to the section 7 that was brought up by our good Delegate from Rota, Former Lieutenant Governor Benjamin Manglona. I sympathize with our honorable delegate from Rota, the former Lieutenant Governor Benjamin T. Manglona, the champion of local government. With all due respect, however, I beg to differ slightly and I emphasize "slightly." He talks about dispelling fear of local

government. He wants the grace period for Tinian but requests that Rota be spared this and be given flexibility. There are two and only two problems with this, delegates, according to my observation, my cursory observation. The first of which is exceptions to the rule. He is essentially saying let's continue with the system of opening our doors or risking ourselves to arbitrary, unintended inequity in and amongst ourselves, instead of aiming for equitability and standard obligations of laws across the board. Simply said, there is no consistency and conformity.

Number two, this mechanism provides and aims to ensure accountability for citizens to shape up and aim for maximum efficiency and fiscal responsibility. Until we get our acts together and work towards a responsible, practical, and accountable system of government, where all put in their fair share, we will continue to be tolerant of the present ineffective and bloated bureaucracy with minimum quality of public services, which, if we adopt section 7, we otherwise could maximize.

Thank you, Mr. Chairman.

CHAIR VILLAGOMEZ: Thank you, Delegate Gonzales.

Now we are going to go to the main motion.

All those in favor of adopting Article 6 say, "Yes."

All those who oppose say, "No."
Article 6 is adopted.

We are now on Article 9: Initiative
Referendum and Recall, and I call on the Vicechair
Delegate Donald Mendiola.

DELEGATE D. MENDIOLA: Mr. Chair, I move to consider three amendments to Article 9 from first reading and I will tell each amendment and I will discuss one at a time.

CHAIR VILLAGOMEZ: Please proceed.

DELEGATE D. MENDIOLA: All the amendments deal with recall. First as to section 3(a) the proposed amendment is to change the signature requirements on a recall petition from 40 percent of the persons qualified to vote down to 20 percent of the persons qualified to vote. This is just a requirement to get a recall petition on the ballot.

Secondly, as to section 3(c), the proposed amendment is to change the provision on election with respect to recall petitions so that it will read as follows:

"A recall petition certified by the Attorney

General shall be submitted to the voters at the next regular general election if held within 90 days of certification otherwise at a special election held within 90 days of certification."

The current provision puts a recall petition on the ballot at the next regular general election and it allows a special election only if the legislature provides for it.

Third, as to section 3(d), the amendment proposes to make a change in the number of votes necessary to approve a recall petition. The amendment would change this section to read:

"A recall petition shall take effect 30 days after the date of election if approved by the majority of the votes cast."

Under the current provision a recall is approved if two-thirds of the persons qualified to vote actually vote for it.

Mr. Chairman, thank you for letting me explain these amendments on the Article 9 in the Committee of the Whole.

CHAIR VILLAGOMEZ: I suggest we take one delegate

Amendment at a time and perhaps by you making a motion

we can discuss it.

So go ahead.

DELEGATE D. MENDIOLA: First, section 3(a), this states that the signature requirement on a recall petition requires 40 percent of the persons qualified to vote and the amendment is to decrease the number of persons qualified to vote down to 20 percent.

PRESIDENT GUERRERO: Point of order, Mr. Chairman, can we make a motion to adopt the full report, or are we going to go section by section?

DELEGATE D. MENDIOLA: Do you want me to go section by section?

CHAIR VILLAGOMEZ: Let's follow the regular procedure. Why don't you, Delegate Vicechair, make a motion to adopt the report.

DELEGATE D. MENDIOLA: I move to adopt the report by the Committee of the Judiciary and Other Elected Offices on Article 9 from first reading with the three amendments as reported by --

CHAIR VILLAGOMEZ: No. Why don't you just move to adopt the report and then we will bring up the amendments one at a time.

DELEGATE D. MENDIOLA: I move that we adopt the report on Article 9.

CHAIR VILLAGOMEZ: Any second?

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that we adopt Article 9 as is.

Go ahead, Delegate Mendiola, with the first amendment.

DELEGATE D. MENDIOLA: Section 3(a), the first amendment is to decrease the percentage required, I mean the percentage of qualified voters that are required to recall or for a recall petition to be placed on the ballot. It used to be 40 percent and the amendment is to lower it down to 20 percent.

CHAIR VILLAGOMEZ: That is your motion, right?

DELEGATE D. MENDIOLA: Yes.

CHAIR VILLAGOMEZ: Any second to that?

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded.

There is a subsidiary motion to reduce from 40 to 20

percent the signature requirement.

Right?

DELEGATE D. MENDIOLA: Yes. To place a recall petition on the ballot.

CHAIR VILLAGOMEZ: Can you say the number of that,

Delegate Amendment what? Do you remember? Or who is

the sponsor of this amendment?

DELEGATE D. MENDIOLA: Let me refer this to Deanne because right offhand I do not have the numbers that go with this.

MS. SIEMER: I don't have the number either. You don't need the number. You just vote on it.

CHAIR VILLAGOMEZ: Discussion on that?

Delegate Tom Aldan.

DELEGATE T. ALDAN: It is an amendment of 40 percent.

DELEGATE D. MENDIOLA: From 40 down to 30.

DELEGATE T. ALDAN: 40 to 30.

DELEGATE ALDAN-PIERCE: 30 to 40.

DELEGATE D. MENDIOLA: 40 to 20.

CHAIR VILLAGOMEZ: The amendment is 40 to 20.

Why don't we take a five-minute break.

(Recess taken from 3:45 p.m. to 4:00 p.m.)

chair villagomez: The Committee of the Whole reconvenes. You should have a copy of the draft, July 25th, Report of the Judiciary Committee regarding Initiative, Referendum and Recall on the proposed amendment.

I would like to call Deanne to explain the three amendments.

MS. SIEMER: As soon as she finishes chewing, she

will.

MR. WILLENS: Betel nut.

MS. SIEMER: The question before the Committee is whether to make recall easier, and if so, how to make it easier.

The Committee discussed this generally. It did not have an opportunity to have a formal meeting because Chair Hofschneider has been off island and because other committees have been meeting.

The Committee discussed three methods of making recall easier. The first is: How many signatures have to be put on the petition; and what was being considered was 40 percent down to 20 percent. The second is: When would an election be held, and what was being considered was within 90 days, either a regular election or a special election. And the third was: How many votes does it take to approve a recall; that is, to get an elected official out of office. What was being discussed was reducing it from two-thirds down to a majority.

CHAIR VILLAGOMEZ: With that I recognize the Vicechair to make a motion for amendment No. 1.

DELEGATE D. MENDIOLA: First I would like to say thanks for doing that for me, Deanne.

I make a move to adopt the amendment, the first amendment to Article 9, section 3(a)

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that the signature requirement be reduced from 40 percent to 20 percent. It has been moved and seconded.

Discussion?

All those in favor say, "Yes."

All opposed say, "No."

Subsidiary motion No. 1 is adopted.

Go ahead, Vicechair.

DELEGATE D. MENDIOLA: Mr. Chair, I would like to move that the amendment, amendment 24, no change, section 3(c) be adopted.

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that 3(c) be adopted --

DELEGATE D. MENDIOLA: No, no. Amendment 24, no change, section 3(c) be adopted.

CHAIR VILLAGOMEZ: -- be adopted regarding special election to be held within 90 days of certification.

DELEGATE T. ALDAN: Can we have a limited discussion?

CHAIR VILLAGOMEZ: My apology. Let's have discussion on the proposed discussion.

DELEGATE D. MENDIOLA: Mr. Chair, I withdraw the motion to correct myself on that subsidiary motion.

It should be a motion to adopt delegate

Amendment No. 7 and not delegate Amendment No. 24 to

change section 3(c) of Article 19.

I stand corrected. Thank you.

(The motion was seconded).

CHAIR VILLAGOMEZ: Will you read that out.

DELEGATE D. MENDIOLA: As you have written, because it is your amendment.

(Laughter).

Okay. Here goes. Article 9, amendment No. 7 by Delegate Joaquin P. Villagomez, to amend section 3 Article (c), section 3 subsection (c):

"A recall petition certified by the Attorney General shall be submitted to the voters at a special election within 90 days unless more than half of the term remains and a special election is provided by law for this purpose."

MS. SIEMER: That is a different version. The Committee version, or what was being discussed by the Committee, is that the recall petition would be

considered within 90 days. If there is a regular election within 90 days, at a regular election, if not, it would be at a special election. Because there are so few recalls, the extra cost concerns that several delegates have raised was thought not to be a burden.

This is another version with respect to the special election and this version that Delegate

Mendiola just read is keyed to how much of the term remains.

DELEGATE D. MENDIOLA: I make a move to adopt the amendment to section 3(c)

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that Delegate Amendment 7 be adopted.

Discussion?

DELEGATE D. MENDIOLA: Amendment 7 as corrected or words added to it to clarify the amendment, delegate Amendment No. 7.

CHAIR VILLAGOMEZ: Let's have some order. -

DELEGATE HOCOG: Mr. Chairman.

CHAIR VILLAGOMEZ: Go ahead, Mr. Floor Leader.

DELEGATE HOCOG: I would like to move to amend Article 9, section 3(c).

CHAIR VILLAGOMEZ: To read?

DELEGATE HOCOG: To read on recall:

"A recall petition certified by
the Attorney General shall be
submitted to the voters at a
special election in 90 days
unless more than half of the
term remains and special
election is provided by law for
this purpose."

(The motion was seconded).

CHAIR VILLAGOMEZ: You know, we have two subsidiary motions. Let's take a five-minute break.

(Recess taken from 4:08 p.m. to 4:15 p.m.)

CHAIR VILLAGOMEZ: The Committee of the whole reconvenes. I call on Floor Leader.

DELEGATE HOCOG: Mr. Chair, I apologize.

My apologies to the delegates. I would like to withdraw my motion, and if I may introduce a new motion.

CHAIR VILLAGOMEZ: There is a subsidiary motion made by Delegate Mendiola.

Would you be willing to withdraw that,

Delegate Mendiola, so we can come up, come in, with a

new one?

DELEGATE D. MENDIOLA: Yes Mr. Chairman I, will withdraw that subsidiary motion.

CHAIR VILLAGOMEZ: Go ahead, Delegate Hocog.

DELEGATE HOCOG: I move, Mr. Chairman, to amendment Article 9, section 3(c):

"A recall petition certified by the Attorney General shall be submitted to the voters at the next regular general election if held within 90 days of certification; otherwise at a special election held within 90 days of certification."

CHAIR VILLAGOMEZ: Second?

(The motion was seconded).

CHAIR VILLAGOMEZ: Discussion on the motion?

Ready?

All those in favor of the motion say, "Yes."

Opposed say, "No."

Subsidiary motion carried.

Back to the main motion.

Discussion? Oh, no. I am sorry.

There is a subsidiary motion No. 3 and I call on the Vicechair.

DELEGATE D. MENDIOLA: I move that the amendment to change section 3(d) of Article 9 be adopted.

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that the amendment to 3(d) be adopted and will you state that sentence, Vicechair.

DELEGATE D. MENDIOLA: Yes.

The amendment proposes to make a change to the number of the votes necessary to approve a recall petition. The amendment would change the section as follows:

"A recall petition shall take
effect 30 days after the date of
election if approved by the
majority of the votes cast."

CHAIR VILLAGOMEZ: Thank you.

Motion carried.

Any question on that? Discussion?
All those in favor say, "Yes."
Opposed say, "No."

Back to the main motion.

PRESIDENT GUERRERO: Move the previous question.

CHAIR VILLAGOMEZ: Okay. We are going to vote on the main motion.

All those in favor of adopting Article 9 as amended say, "Yes."

Opposed say, "No."

Article 9 as amended is hereby adopted.

We are going to move down to Article 17 and put Article 12 as the last.

I call, for Article 17: Ethical Standards, on Delegate Chair Felix Nogis.

DELEGATE NOGIS: Thank you, Mr. Chair.

As a result of our meeting this morning there wasn't a change on this article and the Committee recommends it to be adopted on second reading. I move it be adopted on second reading

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that be adopted on second reading, Ethical Standards, Article 17.

Discussion on that?

All those in favor of the motion say,

"Yes."

Opposed say, "No."

Article 17 is adopted.

Article 18. I call on Vicechair Donald
Mendiola, Delegate Mendiola. This is on Constitutional

Amendment and Mutual Consent. There are some amendments on that.

Go ahead, Vicechair.

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

The Committee presents the following report to the delegates with respect to Article 18, Constitutional Amendment, on second reading.

The report, report No. 6, was prepared on the 18th of July, 1995. There were no delegate proposals affecting Article 18 submitted after that time. The Committee of the Whole considered report No. 6 on the 18th, and proposed certain modifications. The Committee incorporated those modifications into report No. 6 as revised.

On July 20, 1995 the Convention adopted

Report No. 6 and approved constitutional amendments

proposed therein on first reading. There were three

delegate amendments submitted. The Committee has

received a number of amendments which were proposed to

change Article 18 as approved on first reading.

Delegate Amendment No. 24 proposes to amend section 1 to require that an initiative petition to amend the Constitution be signed by at least 40 percent of qualified voters in the entire Commonwealth of the

Northern Marianas Islands. This would change the requirement, approved on first reading, of 30 percent of qualified voters Commonwealth-wide plus 25 percent of qualified voters in each senatorial district.

Delegate Amendment No. 25 proposes to amend section No. 2 to require that an initiative petition to convene a constitutional convention be signed by at least 40 percent of qualified voters in the Commonwealth. This would change the requirement, approved on first reading, of 30 percent of qualified voters Commonwealth-wide plus 25 percent of qualified voters in each senatorial district.

Delegate Amendment No. 26 proposes to change section 3 to impose a time limit of 60 calendar days for the legislature to act after a request for amendment of a mutual consent provision of the Covenant has been transmitted to the legislature by the governor. If the legislature fails to act, the amendment is deemed approved.

Delegate Amendment No. 27 proposes to amend section 4(b) to require two-thirds of the votes cast to approve a proposed constitutional amendment by initiative petition or a proposed consent to an amendment to the Covenant. This would change the

requirement, approved on first reading of two-thirds of the votes cast plus a majority of the votes cast in at least two senatorial districts.

Committee changes: We recommend no changes to Article 18 as passed on first reading. The Committee recommends that the changes to Article 18 as recommended by the Committee be on first reading adopted by the Convention and passed by the Convention in second and final reading.

Respectfully submitted by the committee and the subcommittee on this Article.

CHAIR VILLAGOMEZ: Do you want to make a motion?

DELEGATE D. MENDIOLA: I make a motion to please adopt Article 18 as passed on first reading.

(The motion was seconded).

CHAIR VILLAGOMEZ: Discussion on Article 18?

Delegate Tom Aldan, go ahead.

DELEGATE T. ALDAN: Mr. Chairman, I would like to ask the delegates to reconsider the amendment made to section 4(b) for mutual consent on the ratification. I would like to propose that we adopt 60 percent of the votes cast, so that we delete the requirement for approval by simple majority in each of at least two senatorial districts.

CHAIR VILLAGOMEZ: That is a motion, right?

DELEGATE T. ALDAN: So moved.

CHAIR VILLAGOMEZ: Any second?

(The motion was seconded).

CHAIR VILLAGOMEZ: Can you clarify your motion, by specific section?

DELEGATE T. ALDAN: On the ratification.

CHAIR VILLAGOMEZ: Your amendment is No. 27.

DELEGATE T. ALDAN: Yes.

DELEGATE D. MENDIOLA: Point of information.

CHAIR VILLAGOMEZ: Go ahead.

DELEGATE D. MENDIOLA: I understand he is making a motion to amend his amendment that he proposed and submitted to the Committee.

I believe that all these amendments to Article 18 were submitted by Delegate Tom Aldan.

Is there a reason why you want to change your amendment that you submitted to the Committee?

Remember these are Amendments 24, 25, 26 and 27.

DELEGATE T. ALDAN: Yes.

CHAIR VILLAGOMEZ: Go ahead, Delegate Aldan.

DELEGATE T. ALDAN: The Vicechair is stating they are all approved.

Under subsection (b) of 4:

"A proposed constitutional amendment by initiative petition or a proposed consent to a change in the Covenant certified by the Attorney General shall be submitted to the voters for ratification at the next regular election that is held at least 90 days from the date the petition has been certified or at a special election provided by law and shall become effective if approved by 60 percent of the votes cast."

CHAIR VILLAGOMEZ: Any more discussion?

Go ahead, Delegate Manglona.

DELEGATE MANGLONA: Yes. I have a problem with that I think if we take that trend even without anybody voting from Rota or Tinian we can garner the passage of constitutional ratification by 60 percent out of Saipan. Let's take a population 10,000 from Saipan. 60 percent of that will be about 6,000. So it can easily be ratified here even if no one is voting in

Rota and Tinian, I suggest that if we could take the same language that was passed during the first reading of this particular section.

CHAIR VILLAGOMEZ: Any more discussion before we vote on the subsidiary motion?

Go ahead, Tom Aldan.

enlighten me a little bit. I like the same provision to be applied under subsection (c): "Shall be deemed to become effective if approved by a majority." Change that "a majority of the votes cast and at least two-thirds of the votes cast in each of the two senatorial districts," to just "60 percent of the votes cast."

CHAIR VILLAGOMEZ: Go ahead.

DELEGATE T. ALDAN: Let's tackle this first.

MS. SIEMER: Chair Aldan is correct. There are two different standards. Section 8(b) is constitutional initiative. That is to change one provision of the Constitution or to do one mutual consent. That provision in 1976 was a majority of the votes cast and two-thirds in each of the two senatorial districts.

And what Chair Aldan wants to do is change that to 60 percent across the board.

DELEGATE T. ALDAN: Yes.

MS. SIEMER: Subsection (c) is different. This is if there is a constitutional convention called then it would be a majority of the votes cast unless the Convention itself decided on a higher requirement.

DELEGATE T. ALDAN: Okay.

MS. SIEMER: So there were two separate --

DELEGATE T. ALDAN: Okay. So just (b).

CHAIR VILLAGOMEZ: Any discussion on 4(b)?

Delegate Hocog.

DELEGATE HOCOG: I don't see any reason why we should support the amendment on 4(b), delegate

Amendment 7 on section 4(b). I think the current one is a very good provision.

CHAIR VILLAGOMEZ: Thank you.

Delegate Guerrero, Herman Guerrero.

PRESIDENT GUERRERO: Yes, Mr. Chairman.

I would like to ask the counsel. This provision still bothers me regarding the one man one vote rule. So the question that I have, is it challengable in court because of that one man one vote provision?

I am going to let it go basically, but I would like to have an answer because if it is

challenged and it is thrown out I want to know what could be some of the possible rulings of the court.

CHAIR VILLAGOMEZ: Mr. Willens.

MR. WILLENS: Let me try to respond to that,
Mr. President.

Of course, as you know, there is no guarantee either as to what might be challenged in court or what the court might do if this were challenged. The Attorney General in the Commonwealth has raised some questions with respect to this provision, as you know. It is our judgment that the provision should stand as it was in the original 1976 Convention and 1976 Constitution. It does have a constitutional problem associated with it. I want to be clear on that, that there is no guarantee this might not be challenged in the future. It is also unclear as to what would result in terms of relief if it were successfully challenged in court.

But the vulnerable part is the requirement that two-thirds of the votes be obtained in each of the two senatorial districts, that is two of the three senatorial districts and if that part of this constitutional provision were struck down that probably would mean that the court would consider that a

constitutional amendment approved by a majority Commonwealth-wide would become effective.

Anything beyond that is speculative. We don't know that it will be challenged; we don't know whether there will be any need for it to be challenged, and we don't know exactly what a court would do if it were challenged, but I think it is appropriate that you know that the provision does carry with it some constitutional problems given the change in the case law over the last 20 years.

PRESIDENT GUERRERO: I just want to be clear,

Mr. Chairman, if I may have the floor again, I just

want to be clear that, it could be that perhaps 10

years down the line or 15 years, I want to move for

certain provisions and if it didn't garner the

necessary votes as required I might challenge the law,

I mean constitutional provision.

Any individual has that right under the Constitution to challenge any provision of our Constitution and if let's say it is two-thirds or 75 percent of the people of Saipan voted for it or garnered the vote but it didn't muster the two-thirds, we should all understand it could be challenged at any point in time, down the line, so it should be clear to

us even if we give our approval it doesn't mean that it is not subject to judicial scrutiny.

Thank you.

CHAIR VILLAGOMEZ: Go ahead, Delegate Tom Aldan.

when you strike three you are out. But in a democratic system there are several avenues available and I am using all these roads pursuant to the roads and due process. You all know that I have struck out twice and this may be the third strike but I believe in defending the democratic system of government because this is the system we adopted by approving the Covenant.

I have heard a lot of argument for and against it. We speak of the right to participate. Every citizen in the Commonwealth eligible to vote will participate in deciding whether the Constitution should be amended. No one can be denied this right; otherwise the result will not stand before a court of competent jurisdiction.

I would like to think that I am standing on my own two feet and defending the ideals we voted to practice. So please let's not compare this requirement to that of the forum or the rules that requires two-thirds for any proposal to pass. Let me put this

issue into perspective and I hope the delegates understand this ramification of this issue. Example one, a proposed constitutional amendment is put to a vote by all the citizens of the Commonwealth. If 75 percent of the votes cast approved the proposed amendment but the voters on Tinian approve it by only 40 percent and the voters on Rota approve it by 49 percent, the result is that the amendment does not pass. Mind you, it was passed by 75 percent of the total votes cast.

Example 2: If an initiative is put to a people in a referendum to nullify a law enacted by the government and 80 percent of the votes cast approve it but only 45 percent on Tinian and 45 percent on Rota approve the initiative the end result again is the same. It is not approved.

Ask yourself. Is this the rule of the majority? Is this the democratic principle we adopted in becoming U.S. citizens? No state of the union allows any veto to power to the minority.

The State of Hawaii used to have the same as we what we have; however, it has changed to simple majority because such provision was struck down by the United States Supreme Court. The tenets under which

the Supreme Court decided the case is that the voter's equal protection right must remain unchanged and should not be weighted on where he or she lives. The equal protection clause of both our Constitution and the 14th Amendment to the United States Constitution require that each person's vote be given equal weight in electing representatives, deciding constitutional amendments and approving intiatives.

This tenet in all states in the United States requires only a simple majority. I only know of one state that allows the veto that requires approval by two-thirds majority. That is the state of New Hampshire. No state allows the veto power to the minority except the Commonwealth of the Northern Mariana Islands.

Under the existing scenario, the Attorney

General has written that the provision may be

unconstitutional. To those of you who are still not

convinced on my quest to practice the rule of the

majority, please let me hear from you case laws that

supported the veto power of the minority. Please let

me hear from you what state in the Union has this

practice. Please argue on substance and not some left

field hot air reason. I will support a status quo if

you will let me see and read any case law under a democratic system of government that will force the tenet of giving veto power to the minority in approving a constitutional amendment.

If you do this, I will defend the status quo. Unless I am provided with this simple measure, I will continue to fight against this issue. certainly urge for the rejection of this amendment by the people. I am asking you, delegates, whether you are from Saipan, Tinian, or Rota to protect the sanctity of our Constitution. This is more damaging than the requirement for the governor to be a resident of the Commonwealth for ten years. If the court rules that this is unconstitutional, for all we know, all that we are passing is in jeopardy. Is this what you want? I sure hope not. Delegates, I am asking you to support the change because it is a good change. It is a change that will definitely withstand the test of any court of competent jurisdiction. There is no special interest, no greed, no nonsense, but pure common sense and pure law. Also it is the right and democratic thing to do.

Thank you.

CHAIR VILLAGOMEZ: Okay. This is the line-up:

Delegates Hocog, San Nicolas, Maratita.

Mr. Floor Leader.

DELEGATE HOCOG: Thank you, Mr. Chairman. I again congratulate Delegate Aldan for his persistency and I I would like to say -- I would like to recall my statement that there is nothing wrong with section 4(b) under the 1976 Constitution, which I did not notice that there is change of such.

Delegate Aldan has consistently wanted to change the ratification process of our initiative or our constitutional amendment. I cannot provide him with any case law that he was referring or asking but I would also like to see that Delegate Aldan keep us to case law that a constitution was voted down because of Rota not participating and Tinian not participating on the ratification of all the amendments.

Mr. Chairman, when we ratified the

Constitution in 1976, we do have a Constitution.

Again, there is a constitutional amendment in 1985 and

I understand that the amendment passes even with

requiring two-thirds from Rota and Tinian and simple

majority from one of the islands.

Let us say that a good constitutional amendment that will enhance the livelihood of the

people of the Commonwealth, I am very positive,
Mr. Chairman, that the people will vote for the
amendment. It would be unwise for me to say that I
support the intent of Delegate Aldan to ratify
Constitution by simple majority because of the fact,
Mr. Chairman, that Rota and Tinian, the people of Rota
and Tinian, also have a say-so in the process, in the
formulation to make us a Commonwealth islands, and if
the Rota and Tinian people, because the number of
voters is much less than the voters of Saipan, will not
have any say-so, I guess the principle and the doctrine
of Commonwealth will be violated.

Mr. Chairman, I understand the feelings of the delegates particularly from the island of Saipan that perhaps they always felt Rota, Tinian has a trend to move forward of what the central government wishes to accomplish, but I have not seen, Mr. Chairman once that a constitutional amendment that was placed and will be placed before the people of the Commonwealth been rejected as a result of the present formula to ratify the constitutional amendment. As such, I would like to conform, Mr. Chairman, to the present formula. If it will be challenged -- today's process to ratify Constitution -- I welcome the challenge in the future.

But I guess to outrightly do this today would really disarm your neighbors, your friends, your families and everyone, if you do that today. I pledge and I beg that let's remain status quo as we are united. We must stay together, for harmony, for better or for worse.

CHAIR VILLAGOMEZ: Thank you, Floor Leader.

Delegate San Nicolas and Delegate Maratita and Delegate Quitugua.

That will be the last. I think we have enough debate on this.

CHAIR VILLAGOMEZ: Go ahead, Delegate San Nicolas.

DELEGATE SAN NICOLAS: Thank you, once again,

Mr. Chairman.

As per the request of Delegate Aldan I am sorry I, too, do not know; I am not a lawyer. But just to paraphrase or restate what our good lawyer, good lead counsel stated earlier, he said that should we maintain the status quo there is no guarantee that it will be ruled unconstitutional. It would be placed in the courts and the courts will decide. We have maintained the status quo for quite some time now, and it has been working and, I believe, fairly.

I can think of one aspect of where the majority didn't necessarily have all the power but

everybody had an opportunity to provide some input or to provide a vote for the outcome of an election, and I am talking, Mr. Chair, about the highest office of the land of the United States of America, the president.

When American citizens elect the president, we don't look at the numbers of voters in California; there could be a possibility where there is a split regardless of how many millions of people are in California, but if the number of votes from the Electoral College are split then there is no majority there, but if there is a majority, from let's say Rhode Island, to elect the president and it is higher than let's say California because of the split, then in that case you can say that the majority didn't have the final vote. There is always that possibility. I do not have any case law to put forth but even in the United States of America where Americans elect the President of the United States you do not necessarily look at each vote. It is determined by what is called an Electoral College.

Now, that is not something to necessarily compare with us, but I think that is an example where the majority did not necessarily have the final say so. I am not saying that Saipan or the majority of the

Commonwealth should not, but he asked for an example, and that is the only thing I could probably bring up to mind off the cuff.

CHAIR VILLAGOMEZ: Thank you.

DELEGATE SAN NICOLAS: But, Mr. Chair, let me just say this, Mr. Chair.

Thank you.

The status quo, we have been maintaining it for some time and only time will tell whether this is unconstitutional or constitutional, but as a delegate from Tinian, as a delegate who feels what the people of Tinian feel, I am willing to allow for the status quo. Bring it to the courts and I am willing to wager that this is a fine provision in our Constitution.

Thank you, Mr. Chair.

CHAIR VILLAGOMEZ: Thank you.

And the next speaker, Delegate Maratita and the last speaker will be Delegate Quitugua.

DELEGATE MARATITA: Thank you, Mr. Chairman.

I just hope that the feeling of what we have the provision in our Constitution for status quo, for constitutional ratification, constitutional amendment, majority in the Commonwealth and two-thirds of any of two senatorial districts, that is an internal

arrangement that we have passed.

I am not familiar with case law in the United States, I am just wondering if in the State of California, for example, they have state-wide formula, but does Sacramento County or Los Angeles County have a vote that would constitute as to what is to be elected by the voters in Los Angeles County.

This is the arrangement that we have made in the first Constitution and it is a formula that we adopted and I think it is working well. Let's still continue this formula.

CHAIR VILLAGOMEZ: Thank you.

DELEGATE MARATITA: Thank you.

CHAIR VILLAGOMEZ: Delegate Quitugua.

DELEGATE QUITUGUA: Thank you, Mr. Chair. I will not dispute the majority rule concept. But I am sure there is a purpose in having this formula in the first Constitution and I guess it is not for the sake of -- I don't even want to use the word minority to rule over the majority.

I would like to think of our constitutional ratification as that of the United States Constitution and not of a state constitution. I think looking at it as ratification of the Constitution as what comprised

the Commonwealth, and we are all saying we are citizens of the Commonwealth. In that line I would like to ask Howard how does the United States Constitution ratify.

CHAIR VILLAGOMEZ: Go ahead, Howard.

MR. WILLENS: I may pass this one off to Bernie.

I think it does require a ratification by a certain number of states.

MR. ZIMMERMAN: It is a super majority thing.

CHAIR VILLAGOMEZ: Go ahead, Bernard.

MR. ZIMMERMAN: It is on a state-wide basis and it is a super majority.

MR. WILLENS: Three-fourths.

MR. ZIMMERMAN: Three-fourths, I think.

MR. WILLENS: So the answer to your question is basically that approval does come by the vote of three-fourths of the states. That is based on our current knowledge. We can research that further but I think that is correct.

DELEGATE QUITUGUA: That means that every state should garner three-fourths?

CHAIR VILLAGOMEZ: Go ahead Bernie.

MR. ZIMMERMAN: It is a different process. It is left to each state to determine how that state will ratify. In many states the ratification process is

conducted by state legislature and not by a popular vote. I think some states do it by a popular vote.

It took over 150 years to ratify one amendment because of the fact that it is a very slow process. It is an interesting analogy, but I think given the legal issues that we are discussing -- that have been raised here -- I don't think it is really going to help you given the way this provision would be analyzed by your courts under your Constitution or by the federal courts.

CHAIR VILLAGOMEZ: Delegate Quitugua? Satisfied?

DELEGATE QUITUGUA: No, I am not satisfied, but I have nothing else.

CHAIR VILLAGOMEZ: Last one and we are going to go. Lillian Tenorio.

DELEGATE LILLIAN TENORIO: Thank you,

Mr. Chairman. I am a proud citizen of the Commonwealth of the Northern Mariana Islands and I reside on the island of Saipan where I was born and raised. When I cast my vote, Mr. Chairman I want my vote to count every time. It should be a full vote every time, not one half, not one-third, not any less than a full whole vote. It should not be any less than that just because of where I reside.

Thank you.

CHAIR VILLAGOMEZ:

Ready for the subsidiary motion as proposed by Delegate Tom Aldan.

All those in favor say, "Yes." All those opposed say, "No."

Motion carried. Back to the main motion.

Delegate Tom Aldan.

DELEGATE T. ALDAN: I have another motion.

CHAIR VILLAGOMEZ: Go ahead.

DELEGATE T. ALDAN: I would like to add the words "within 60 days" under section 3, Mutual Consent:

"...has been approved within 60 days by a vote of three-fourths of the members of each house of the legislature after public hearings and adequate information about the position

of-the-United States as to its
consent approved by the governor
and ratified by the people in
accordance with section 4 of
this article."

I would like to add a last sentence:

"If the legislature has not acted within 60 days. The proposed amendment shall be deemed approved by the legislature."

So that it can go to the people.

That is my motion, to add "within 60 days" and to add one last sentence:

"If the legislature has not acted within 60 days the proposed amendment shall be deemed approved by the legislature."

(The motion was seconded).

CHAIR VILLAGOMEZ: It has been moved and seconded that the language proposed by Delegate Tom Aldan be approved.

Will you please state the new language.

DELEGATE T. ALDAN: The new language would be -let me see whether there is a period somewhere along
there. I like the attorneys the way they write. They
don't like periods; they like commas.

It is only one sentence so I am going to add the second sentence. It is going to read like this:

Mutual consent: "Consent by the government of the Commonwealth to amendment of any fundamental provision of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Unity with the United States of America protected by the mutual consent requirement of section 105 of the Covenant shall be communicated to the United States and bind the Commonwealth only after the proposed amendment to the Covenant has been approved."

And this is what I am adding:

"within 60 days by a vote of three-fourths of the members of each house of the legislature after public hearings and adequate information about the position of the United States as to its consent, approved by the governor, and ratified by the people in accordance with section 4 of this article."

I would like to add:

"If the legislature has not acted within 60 days, the proposed amendment shall be deemed approved by the legislature."

The reason I am adding that, Mr. Chairman, is that what if the House sits on it for three years or even one year or more. I would like to give them a timetable, 60 days may be too short but my proposal is

60 days. If they don't act within the 60 day period it will be deemed approved and open for ratification as to section 6.

CHAIR VILLAGOMEZ: This is in reference to delegate amendment 26.

All of you have a copy?

Okay. Discussion?

Ready for the motion?

All those in favor say, "Yes."

Opposed say, "No."

Subsidiary motion carried.

Back to the main motion.

Now we are ready on the main motion as amended.

All those in favor say, "Yes." Opposed say, "No."

Motion carried.

Article 18 as amended is adopted by the Committee of the Whole.

We are now on 19, Commonwealth Unity, and I call Chair Nogis.

DELEGATE NOGIS: Thank you, Mr. Chairman. Again, as a result of our meeting this morning, Article 19, Commonwealth Unity, there was only one amendment that

was entertained by the Committee and that is the change in the wording so far as the seal, changing the official seal wording to reflect when the Commonwealth was established which is 1978. That is the only change to the amendment itself. With that, I would like to move that the Committee of the Whole approve.

(The motion was seconded).

CHAIR VILLAGOMEZ: Discussion?

DELEGATE HOCOG: Mr. Chairman.

CHAIR VILLAGOMEZ: Okay, Mr. Floor Leader.

DELEGATE HOCOG: Recognize, me, Mr. Chair.

CHAIR VILLAGOMEZ: Yes.

DELEGATE HOCOG: I really praise the Committee to come up with the Commonwealth Unity to pass today, also. But my personal feeling you better strike it out and throw it in the trash can because there is no unity here in this chamber. We don't want to use something and imprint as wisdom of the delegates and nothing in their hearts to uphold the concept of Commonwealth unity. We have just witnessed, Mr. Chairman, a couple of minutes ago, when I am asking my good delegates not to disarm us, yet they proceeded to vote against. So, to have this in our Constitution, Mr. Chairman, I don't think it serves any purpose at all. It does not

reflect the intent of this amendment for unity.

CHAIR VILLAGOMEZ: Floor leader, we are talking about flags and you are talking about unity.

DELEGATE HOCOG: That is Commonwealth unity, Mr. Chairman. We are talking about Article 19. Are we talking about Article 19?

CHAIR VILLAGOMEZ: Yes. It deals with the flag and the seal. And you are discussing the concept of unity as a Commonwealth.

I think you are out of order.

DELEGATE HOCOG: I am not out of order. I think I am under Article 19, Mr. Chairman, unless I am reading a different proposal than was handed to me.

DELEGATE BORJA: Point of clarification.

CHAIR VILLAGOMEZ: Go ahead.

DELEGATE BORJA: I think Delegate is in order. That provision there is called Commonwealth Unity.

CHAIR VILLAGOMEZ: Do you want to change the name?

DELEGATE HOCOG: Do you think the flag reflects

Commonwealth unity? Are we calling our flag

Commonwealth unity or do we have an intent to put the

Commonwealth unity not referring to the flag,

Mr. Chairman?

CHAIR VILLAGOMEZ: Go ahead, Delegate Nogis, and

please respond?

DELEGATE NOGIS: Floor leader, could you repeat your question? I didn't catch it.

DELEGATE HOCOG: Is Commonwealth unity reflected in the flag?

DELEGATE NOGIS: It reflects the seal, Floor Leader.

DELEGATE HOCOG: The seal or the flag?

DELEGATE NOGIS: The seal of the Commonwealth.

DELEGATE HOCOG: I think it is better, Mr.

Chairman, if we call the flag Chamolinian.

CHAIR VILLAGOMEZ: Do you want to make that into a motion?

DELEGATE HOCOG: I rest this to my good chairman.

CHAIR VILLAGOMEZ: Go ahead, Chair.

DELEGATE NOGIS: That is not a decision for me to make, Mr. Chairman.

CHAIR VILLAGOMEZ: That is why I am asking him if he wants to make it into a motion and we vote it.

DELEGATE HOCOG: I don't want to be forced,

Mr. Chairman. Don't tell me what I will make and what
I will not make.

CHAIR VILLAGOMEZ: Any discussion on Article 19, Commonwealth Unity?

Go ahead, Delegate Donald Mendiola.

DELEGATE D. MENDIOLA: Thank you. This is in reference to recognizing Commonwealth unity, the Constitution of the Northern Marianas, it is the last page. I was reading over the official seal where it says that former Article 22 was added in 1985 and contains three sections dealing with the official flag and language. This section contains former section 1 of Article 22, change the reference to flores de mayo was changed to flores maya. It is not flores maya. I would like to correct it and refer to it again as flores mayo. I don't know if it is a typo or it is that way.

MS. SIEMER: It was a typo and will get it corrected. I was attempting to get the amendment the last time. So the correct spelling should be there.

DELEGATE D. MENDIOLA: M A Y O,. Thank you. That is on Commonwealth unity though. Thank you,
Mr. Chairman.

CHAIR VILLAGOMEZ: Any more discussion on

Commonwealth unity dealing with oath of office,

official seal and official flag and official languages

and state Capital, Commonwealth Capital?

Ready?

All those in favor say, "Yes." Opposed say, "No." Article 19 is adopted.

We are now on Article 12. Do you want to take a break?

Five-minute break.

(Recess taken from 5:03 p.m. to 5:12 p.m.)

CHAIR VILLAGOMEZ: The Committee of the Whole reconvenes. Pursuant to the recommendation by Chair Lifoifoi, we are going to defer discussion on Article 12 until Monday.

DELEGATE LIFOIFOI: Monday at 9:00.

CHAIR VILLAGOMEZ: Floor Leader, we are ready to
rise back to the --

DELEGATE HOCOG: I move Mr. Chairman to rise back to the plenary session.

(The motion was seconded).

CHAIR VILLAGOMEZ: All in favor say, "Yes."

(The motion was seconded).

CHAIR VILLAGOMEZ: Before we rise back to plenary session I want the Convention to recognize the presence of my wife, Diane.

(Applause).

DELEGATE NOGIS: With that, Mr. Chairman, I just want to say that your performance was very

outstanding.

president Guerrero: The plenary session is called back to order. I call on the Chair of the Committee of the Whole to report on the deliberation of the Committee.

Delegate Joaquin Villagomez, please proceed.

DELEGATE VILLAGOMEZ: Thank you, Mr. President. I think I need a Tylenol.

I appreciate the opportunity to chair.

Mr. President, Committee of the Whole adopted Article 6 on local government; Article 9, Initiative Referendum and Recall, with amendment; Article 17, Ethical Standards; Article 18, Constitutional Amendment and Mutual Consent, with amendment; Article 19, Commonwealth Unity, with amendment.

Thank you.

PRESIDENT GUERRERO: It was amended on the floor?

DELEGATE VILLAGOMEZ: No, no.

PRESIDENT GUERRERO: As reported.

DELEGATE VILLAGOMEZ: I take that back. Article 19, Commonwealth Unity.

PRESIDENT GUERRERO: Thank you, Delegate Villagomez. And the chair compliments you on conducting a good Committee of the Whole.

Mr. Floor Leader.

DELEGATE HOCOG: Yes, Mr. President.

PRESIDENT GUERRERO: Can we entertain some of these reports for first or second reading, please?

DELEGATE HOCOG: Mr. President, I move to pass Article 6 on first reading.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to pass Article 6 on first 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, Herman T. Guerrero,

Victor B. Hocog, Jose R. Lifoifoi,

Benjamin T. Manglona, David Q. Maratita,

Donald B. Mendiola, Felix R. Nogis,

Bernadita T. Seman, Marylou Ada Sirok,

Helen Taro-Atalig, Juan S. Tenorio,

Lillian A. Tenorio, Joaquin P. Villagomez.

NO: Joey P. Nicolas, Justo S. Quituqua

ABSTAINING: Benjamin T. Manglona.

CONVENTION CLERK: Mr. President, we have 18 members voting yes; 2 members voting no; one member abstained, and 6 members absent.

PRESIDENT GUERRERO: Thank you.

Article 6 passed.

Delegate Gonzales, before I make the final announcement, do you want to vote?

DELEGATE GONZALES: Yes.

CHAIR VILLAGOMEZ: We are voting on Article 6 for first reading.

Con-Con clerk, can you call his name.

CONVENTION CLERK: Delegate Gonzales.

DELEGATE GONZALES: Yes.

PRESIDENT GUERRERO: Con-Con clerk, 19 members

voted yes; 2 members voted no; 6 members absent -- I am
sorry -- one member abstaining and five members absent.

PRESIDENT GUERRERO: Article 6 passed on first reading by 20 votes.

Mr. Floor Leader.

DELEGATE HOCOG: Mr. President, I move to pass on first reading, second and final reading, Article 9 on Initiative Referendum and Recall as amended.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and

seconded to pass Article 9 on Initiative Referendum, and recall for 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,

Jose R. Lifoifoi, Benjamin T. Manglona,

David Q. Maratita, Donald B. Mendiola,

Felix R. Nogis, Justo S. Quitugua,

Joey P. San Nicolas, Bernadita T. Seman,

Marylou Ada Sirok, Helen Taro-Ataliq,

Juan S. Tenorio, Lillian A. Tenorio,

Joaquin P. Villagomez.

yes; 6 members absent...

(Applause).

PRESIDENT GUERRERO: Article 9 passed on second and final reading by 21 votes.

CHAIR VILLAGOMEZ: Mr. Floor Leader.

DELEGATE HOCOG: It has been a long day,

Mr. President.

I move to pass on final reading Article 17, Ethical Standards.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and Article
17 ethical standards for 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, Jose R. Lifoifoi,

Benjamin T. Manglona, David Q. Maratita,

Donald B. Mendiola, Felix R. Nogis,

Justo S. Quitugua, Joey P. San Nicolas,

Bernadita T. Seman, Marylou Ada Sirok, --

Helen Taro-Atalig, Juan S. Tenorio,

Lillian A. Tenorio, Joaquin P. Villagomez.

CONVENTION CLERK: Mr. President, we have 21 members voting yes; and 6 members absent.

PRESIDENT GUERRERO: Thank you.

Article 17 passed on second and final reading by 21 votes.

Floor Leader.

DELEGATE HOCOG: Mr. President, I move to pass Article 18 on second and final reading, as amended.

PRESIDENT GUERRERO: Thank you, is there a
second?

(The motion was seconded).

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

Discussion?

Yes, Delegate Quitugua.

DELEGATE QUITUGUA: Mr. President, I request that we vote Article 18 on section by section and the amendments be read out loud.

(The motion was seconded).

PRESIDENT GUERRERO: Let me consult with the legal counsel.

There is a motion for a division of the questions on Article 18.

So the motion is that he wants to entertain each section individually so the members know what they are voting on.

He is making a motion for a division of the question and I believe it has been seconded.

Right? Was there a second to that?

MR. ZIMMERMAN: Yes.

CHAIR VILLAGOMEZ: I need to entertain first his motion before we entertain any division before we go section by section.

Those in favor of Delegate Quitugua's motion for a division of question please say "Aye."

Those who oppose say "Nay."

Very luke warm.

Can I request again those in favor of that motion please raise your hands.

Those who oppose.

The motion defeated.

Any other discussion?

If not Con-Con clerk, roll call.

{The roll was called and the Delegates

voted as follows:}

YES: Delegates Tomas B. Aldan, Marian

Aldan-Pierce, Frances LG Borja,

Esther S. Fleming, John Oliver

DLR. Gonzales, Herman T. Guerrero,

Victor B. Hocog, Jose R. Lifoifoi,

Benjamin T. Manglona, David Q. Maratita,
Donald B. Mendiola, Felix R. Nogis,
Justo S. Quitugua, Joey P. San Nicolas,
Bernadita T. Seman, Marylou Ada Sirok,
Helen Taro-Atalig, Juan S. Tenorio,
Lillian A. Tenorio, Joaquin P. Villagomez.
NO: Victor B. Hocog, Benjamin T. Manglona,
David Q. Maratita, Justo S. Quitugua,
Joey P. San Nicolas.

ABSTAINING: Vicente S. Aldan.

CONVENTION CLERK: Mr. President, 15 members voted yes; 5 members voted no; one member abstained; and 6 members absent.

PRESIDENT GUERRERO: Article 18 passed on second and final reading by 16 votes.

Mr. Floor Leader.

DELEGATE HOCOG: I move not to pass Commonwealth unity.

- -- (The-motion was seconded).

PRESIDENT GUERRERO: The motion is "I move not to
pass Commonwealth unity."

DELEGATE T. ALDAN: It has been seconded,
Mr. President.

PRESIDENT GUERRERO: It has been moved and

seconded not to pass Commonwealth unity.

Discussion?

DELEGATE HOCOG: Ready.

DELEGATE T. ALDAN: Just to make sure that I am voting correctly, if I vote no that means that it will pass, right?

DELEGATE MANGLONA: It is a double negative.

DELEGATE T. ALDAN: No.

DELEGATE V. ALDAN: If I vote no is it going to pass?

VOICE: It depends.

CONVENTION CLERK: Mr. President.

PRESIDENT GUERRERO: No.

PRESIDENT GUERRERO: Con-Con clerk.

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

YES: Victor B. Hocog, Justo S. Quituqua.

NO: Delegates Tomas B. Aldan, Vicente S.

Aldan, Marian Aldan-Pierce, Frances LG Borja,

Esther S. Fleming, John Oliver

DLR. Gonzales, Herman T. Guerrero,

Jose R. Lifoifoi, Benjamin

T. Manglona, David Q. Maratita,

Donald B. Mendiola, Felix R. Nogis, Joey

P. San Nicolas, Bernadita T. Seman,
Marylou Ada Sirok, Helen Taro-Atalig,
Juan S. Tenorio, Lillian A. Tenorio,
Joaquin P. Villagomez.

ABSTAINING: Benjamin J. Manglona.

CONVENTION CLERK: Mr. President, two members voted yes. 18 members voted no. One member abstaining and six members absent.

PRESIDENT GUERRERO: Can I ask the legal counsel did we pass that on second and final reading?

MR. WILLENS: Yes. Article 19, Commonwealth Unity, has passed by two-thirds of the members present.

PRESIDENT GUERRERO: What was the vote again?

CONVENTION CLERK: Mr. President, 2 members voted
no; 18 members voted yes; and one member abstaining.

PRESIDENT GUERRERO: It is the other way around.

CONVENTION CLERK: Two members voting yes. 18 members voted no; one member abstaining and 6 members are absent.

PRESIDENT GUERRERO: So Article 19 passes on second and final reading by 19 votes.

Before we move on to the next order of business I want to mention to the members that the

Analysis of the Constitution, we are handing that out, the first draft of the Analysis of the Constitution.

This is taken in large part from the Committee reports but it also includes points made on the floor. The Analysis is what people turn to when they want to know how a particular provision of the Constitution works.

It is important that you take it home and read it over on this Sunday break. We will get to this on Monday or Tuesday after we finish up any remaining articles and take care of the Schedule on Transitional Matters.

Some parts of the Analysis are still with the reports that we were using on first reading. They are clearly marked. We will have a new version of the Analysis after we get finished with the second reading of all the articles but, in large part, the Analysis will not change because we have already approved a large number of articles on second reading. So look it over carefully so you can be prepared when you get to this on our agenda.

Thank you, and basically the Committee on Land and Personal Rights will meet.

DELEGATE LIFOIFOI: 9:00.

PRESIDENT GUERRERO: 9:00 until 11:00 to consider Article 12, section 4, section 5 and section 6. At 11

a.m. We will start our Plenary Session. If the

Committee on Land and Personal Rights is not finished

by 11:00, we will take up the Article 12 in the

Committee of the Whole and finish it.

Yes, Delegate Tom Aldan.

DELEGATE T. ALDAN: I also wish to remind the Committee on Legislative Branch and Public Finance that they will be meeting on Monday at 8:30 a.m. I would like to invite the Chairs and Vicechairs of the other respective committees to attend. We will be discussing transitional matters that basically apply to all the Committees at 8:30 Monday. It shouldn't take more than 30 minutes.

PRESIDENT GUERRERO: I urge all members to attend especially the Land as well as the Transitional Matters Committees and if you have any concern regarding lands I suggest and recommend that you attend that meeting.

Any other announcement?

DELEGATE HOCOG: I move to adjourn.

(The motion was seconded).

PRESIDENT GUERRERO: It has been moved and seconded to adjourn.

Those in favor of the motion say "Aye."

Those who oppose say "Nay."

Motion carried.

(The Convention adjourned at 5:08 p.m.)

Respectfully

Convention Secretary

July 29, 1995

COMMITTEE ON EXECUTIVE BRANCH AND LOCAL GOVERNMENT

REPORT NO. 5: SECTION 17 OF ARTICLE III AND ARTICLE VI (LOCAL GOVERNMENT)

This report supplements and revises Report No. 4 of the Committee dated July 26, 1995. It reflects the further consideration of this matter among the delegates generally and within the Committee on July 26, July 27 and July 29, 1995. The Committee has reached the following conclusions and recommends them to the Convention:

- 1) The Committee recommends that Section 17 of Article III remain exactly as it is now in the Constitution. Accordingly, the Committee withdraws the amendment to Section 17 that it previously recommended to the Convention in Report No. 4. In light of the differences within the Committee and the Convention generally on this difficult subject, the Committee believes that staying with the status quo makes the most sense.
- 2) The Committee recommends that the Convention adopt on first reading the draft Article VI attached to this report. The sections of this Article and their intention are explained in detail in the Committee's Report No. 4 dated July 26, 1995. In light of the Committee's decision relating to Section 17 of Article III,

Section 3 of Article VI has been revised to make certain that each of the mayor's powers presently listed is included in the recommended Section 3. For the convenience of the delegates, the current version of Section 3 of this article is attached to this report.

In addition, Section 3 and 4 have been modified to provide for the appointment of an executive assistant for the northern islands to be appointed by the mayor of Saipan and the islands north of it and for an <u>ex officio</u> member of the municipal council elected by the residents of the northern islands at such time as service on the council becomes full time.

The Committee recommends that the Convention approve this report and the draft Article VI on first reading.

Respectfully submitted,

R NOGIS, Chair Delegate FELIX Delegate JAMES M. MENDIOLA, Vice Chair WITH GREAT RESERVATION Delegate VICTOR B. HOCOG Delegate BENJAMIN T. MANGLONA Delegate DAVID Q. MARATITA Delegate HELEN TARO-A Delegate UAN S. TENORIO

contests).

Comment: With respect to special elections to fill vacancies, see comment to article VIII, § 2.

Section 3: Responsibilities and Duties of the Mayor.

- a) A mayor shall serve on the Governor's Council as established by Section 5 of this article.
- b) A mayor shall administer government programs, public services, and appropriations provided by law, for the island or islands served by the mayor, and shall report quarterly to the governor, relating to these programs and services or appropriations.—
- c) A mayor may investigate complaints and conduct public hearings with respect to government operations and local matters, and may submit findings or recommendations to the governor and the legislature. A mayor may require information in writing relating to local matters as may be necessary to his investigation under this subsection.
- d) The Mayors of Rota, Tinian and Aguiguan, Saipan, and the islands north of Saipan, in consultation with the Municipal Council, shall submit items for inclusion in the proposed budgets for both government operations and capital improvement projects. The governor's budget submission to the legislature shall state his disposition of the budgetary requests contained in the submissions received from the Mayors.
- e) A mayor shall coordinate any extension of federal programs extended to the island or islands served by the mayor.
- f) A mayor shall act as the principal local official for coordinating activities with disaster control for the mobilization of resources and meeting emergency conditions in the island or islands served by the mayor.
- g) The Mayors of Rota, and, Tinian and Aguiguan, shall appoint, in consultation with the head of the respective executive branch department, all resident department heads.
 - h) A mayor shall perform other responsibilities provided by law.

History: Ratified 1977, effective 1978; amended 1985 by Amendment 25; amended by Legislative Initiative 1 (House Bill 5-198), ratified November 7, 1987. This section originally provided:

Section 3: Responsibilities of Mayor.

- a) A mayor shall serve on the governor's council established by section 5 of this article.
- b) A mayor shall review the government services and appropriations provided by law for the island or islands served by the mayor and shall submit to the governor findings or recommendations relating to these services or appropriations.