

FORUM A Meeting Place For Our Opinions. . . And Yours. . .



TR's Marianas
by: John DelRosario

Prineponen Tinilaika gi Konstitusion

I KOMITEN Post Convention esta hatutuhon edukasion publiko pot i manmapropopone siha na tinilaika. Ma publika yan maprinta este siha na prinepone gi gaseto deste mapas na sakan gi fino' English yan Chamorro. Hu gagagao na in taitai hafa seso i intension este siha na proposito para inkemprende i dicho asunto antes de Matso dia 2, haane ni maseñala komo eleksion i disinuebe (19) na amendasion.

Todo kinalamntenta, sumasañao pañun chochu' ni debi ta usune osino ti manmatto hit gi chita. Pot ihemplo, i peskadot uno remedio 'nai siña mañgone guihan i para u peska. Este na asuton ha inkluso preparasion trastes peska, munaño huyoñ gi rubentasion yan lumiof gi tadoñ na tase kontodo entalo' haluu'. Yangin ti ha chogue este i peskadot, pues ti ufañgone' guihan.

Pareho yan i disinuebe na amendasion. Un' manera ha' 'nai siña un'komprende i para un' taitai yan un'komprende hafa seso i intension kada priniponen tinilaika gi konstitusion iya Marianas. Yangin guaha ti sen klaro gi kinemprendemo pot seksiona osino pattikulat na probision, libre hao mamaisen yangin matto i Post Convention na Komite gi señsoñgi miyo.

I Post Convention na Komite hana' impottante edukasion publiko gi este siha na prinipone ayo na humuhuyoñ gi publiko pot para u eksplikta hafa sustansiaña kada amendasion. Estague' na inasoda' 'nai guaha putdetmo mamaisen gi hafa ti un'komprende gi disinuebe na amendasion. Libre hao dumeskute i asunto yan i delegado ni mamembro guine na komite.

Guaha lokue' kulan masosoyo' fina' debate yan i Post Convention na Komite gi este siha na asunto. I proposito na hana' guaguaha edukasion publiko pot para una' klaro gi sudadano siha hafa intension kada amendasion. Ahe' ti pot para una' guaha talo debate sa' esta este monhayan 'nai makonsidera appruuebasion osino disappruuebasion kada artikulo.

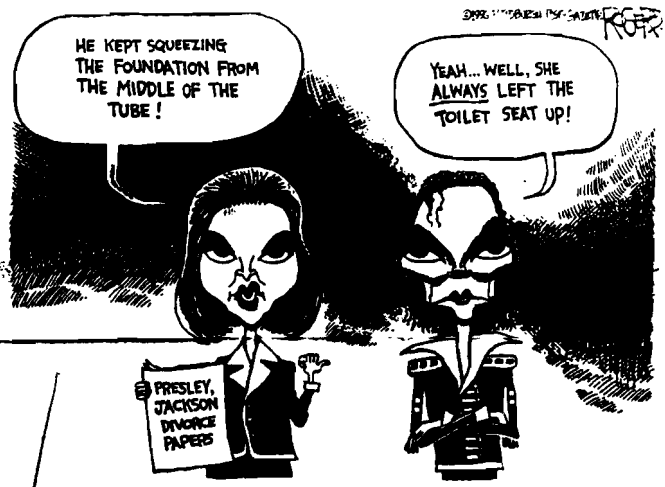
I debate mauleg gi halom man atunño 'nai siña guaha inakomprende hafa bintahaña osino disbintahaña un' ginagao gi disinuebe artikulo. Gi hilo' este na diniskute siempre un'komprende kao kombene osino ti kombene na un'fan bota huñgan pat ahe'. I para un'bohao fina' debate yan i Komite tai impottansia yan sustansia sa' ni taimano biramo nu i asunto, taya' esta putdet 'nai siña malimienda hafa dinisehamo solumke Matso dia 2 'nai para un'fan bota para i uttimo disposision este siha na proposito.

Pues na' guaha tiempomo manaita pot para un'komprende hafa sustansiaña kada artikulo. Rason na presio na un'taitai hafa i dicho intension sa' sumen lache yangin para un'ekuñgog i otro hafa hinasoña ilelegña i artikulo. Pot no un'mana' bulacho, fatachoñgi ya hago mismo un'estudiaye kada asunto. Yangin guaha dinidamo, libre hao mamaisen yangin matto i komite gi señsoñgi miyo.

Mauleg u guaha seso diniskuten este siha na artikulo. Dispues, debi ta komprende na ha chogue checho' niha i delegados siha ya maseha guaha na asunto ti sen umafagcha' yan hafa kinemprendemo osino dinisehamo, ni uno giya hita gai nina' siña mas ke naturat na abilidadat taotao. Taitai i artikulo siha ya hago gi uttimo besis undisidi hafa mauleg na disposision gi kada amendasion.

Ti libiano na chochu' i esta monhayan na artikulo siha. Pot sisienta dias man daña i delegados siha ni hita bumota pot para umaestudiaye kada artikulo. Mana' guaha inekuñgog publiko pot para ufan pattispao i taotao gi konsiderasion kada amendasion. Yangin ti sumaonao hao guenao na inekuñgog ya para pago 'nai un'presenta sifientemo, atrasao sa' esta monhayan i delegados siha ha apprueba, para konsiderasion i publiko i disinuebe siha na artikulo.

Guaha 'nai na fatigao i kadu' na dilikao 'nos kuantos gi taotaota. Pot ihemplo, sige pago manmañgwestona kao hafa posisiona i komite osino ti debi i komite na ufañtule' posision. Yangin pago 'nai para un'atisa ti kinenfotmemo, atrasao. Mas dinancheña na un'fatachoñgi papa' ya un'taitai i disinuebe artikulo ya hago un'disidi gi Matso dia 2 hafa hinasomo propio na disposision gi kada amendasion. Si Yuus Maase.



THE 3rd Con Con AND THE Public

By: Stephen C. Woodruff

Undercutting representative democracy

In my last column, I began my discussion of "Amendment" No. 2, noting how a six member senate and the powers given to the lieutenant governor would "mutilate" the legislature. This column explains the way the Article II changes proposed by the Third Con-Con would reduce the quality of the representation received by the people of Saipan.

Four-year terms for House Members
Two-year terms for members of the house of representatives serve to keep the House responsive to the electorate. The longer senate term is designed to provide a longer-term perspective and facilitate institutional memory in one of the two houses.

Staggering of senate terms prevents stagnation in that body, by giving the voters an opportunity to express their judgment of senate performance every two years and inject new thinking if necessary. Together, the two approaches nicely balance two important virtues in representative democracy. The proposed amendment would do away with this careful balance.

In its place, the amendment substitutes a prescription for sluggish and recalcitrant government. The voters get one chance to elect a government every four years and must live with it for the next four years. Gone is the opportunity for the voters to use the mid-term elections as a means of grading the performance of a governor. Gone is the opportunity for the electorate to vote out legislators who have been unreasonably blocking a governor's program.

A chance to elect one senator on each island every two years is not meaningful in any sense and is essentially a waste of time. Likewise, recall is no substitute for elections every two years.

Recall attempts must be brought against each member individually, by collecting the signatures of 20 percent of the registered voters and then going through a recall election. In contrast, only 100 signatures are needed for someone to challenge an incumbent in a general election.

In a general election, competing candidates debate priorities and policies. The voters can evaluate the candidates and make real choices about what direction the Commonwealth will take. In contrast, in a recall vote, the only question before the electors is whether or not a particular individual should be kicked out of office.

When voting on a recall question, voters do not have an opportunity to elect an alternative candidate. They can only vote whether or not to create a vacancy in that particular office. And if the official is recalled, what then? The vacancy would have to be filled by special election or appointment by the governor. The amendment does not specify which.

To make matters worse, a considerable body of case law in other jurisdictions has grown out of the recall process. Those cases go every which way, but many

hold that a recall petition, to be valid, must state grounds for recall. Under those cases, the fact that a citizen may not like the way a representative voted on particular issues is not grounds for recall.

The convention's recall provision also specifically requires that recall petitions "state the grounds for recall." This language indicates that those cases would apply. Further, recall petitions require certification by the Attorney General that the constitutional requirements have been met. This means the Attorney General could reject a recall petition not just for insufficient signatures but also on the ground that it does not state sufficient grounds for recall.

Plainly, the recall process is inefficient. It requires significant effort on the part of unhappy citizens. It provides no opportunity for debate of competing viewpoints on the issues. Most significant of all, it is easy to see how an officeholder subjected to recall could drag the process on all the way through the end of the four-year term.

Petition drive, certification, election, litigation: what a difficult road to travel to remove just one representative! And all without a campaign on the issues concerning what the government should be doing. It is truly unfortunate that the proponents of four-year terms managed to convince the other delegates that recall is a real alternative to elections every two years.

Arguments about the costs of campaigning and time spent campaigning have been presented in support of a four-year term. These arguments are misplaced. Concern about campaign costs cannot be accorded much weight when the same amendment proposes to significantly increase the costs of campaigning by requiring every Saipan candidate to run island wide.

The cost of election administration is minor compared to the overall cost of government and the importance of the function. It is also ironic, to say the least, for the convention to tout election cost savings at the same time as endorsing a system which would require frequent elections for recalls and filling vacancies.

As for time spent campaigning, the most effective weapon in a political campaign is a solid record of performance. A representative who neglects performance for petty politicking will not last long.

Granted, the campaign trail is grueling—physically, mentally, and emotionally exhausting—but no one ever said public service is easy. This, unfortunately, is part of the price that must be paid for the privilege of serving as a representative in a government of, by, and for the people.

Continued tomorrow

3rd Con Con AND THE Public

By: Stephen C. Woodruff

Legislature a municipal council?

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Judging from the latest information on the convention's reasoning provided by the Post Convention Committee, it is not surprising the Third Con-Con bungled the legislative article so badly. It appears the convention's leadership and advisors equated the Commonwealth legislature with a municipal council. Apparently they also failed to recognize or understand the differences between deliberative assemblies and other multi-member entities such as executive boards and adjudicative bodies.

A city council is not a state legislature. City councils do not enact comprehensive criminal codes, probate acts, immigration laws, or domestic relations statutes, to give just a few examples.

Above a city council in the hierarchy of state government is a county board of supervisors (or the equivalent), which may or may not have some jurisdiction within the city proper, and then the state legislature. Given these facts, it is not surprising that some municipal councils have as few as four, five, or six members.

As I pointed out previously, the Commonwealth senate, at nine members, is already the smallest state legislative body in the United States. Anyone can confirm this for themselves by reference to the Book of the States.

I am far more impressed by Justice Blackmun's analysis—and the scientific studies he cited to support his views—than I am by the bare platitudes and municipal analogies of the Post Convention Committee.

The myopia and confusion we see in the municipal analogy, however, is wholly surpassed by the evident inability of the convention's leadership and advisors to distinguish between deliberative assemblies and non-legislative bodies.

Bodies such as the Board of Education or the Civil Service Commission are executive and sometimes quasi-judicial bodies. They are not, and are not supposed to be, deliberative assemblies. They do not have the responsibility of enacting general legislation covering the entire sphere of governmental activity and determining rules for the primary conduct of persons in nearly every conceivable realm of human endeavor.

These entities have narrowly defined functions and duties. Their responsibilities are limited, not plenary.

Such bodies make executive decisions, much like the governor, but in contexts where the public interest is better served by having the decisions made by a group rather than a single individual. When sitting a quasi-judicial body, they take evidence, determine facts, and apply the facts to existing rules, and sometimes review earlier decisions for error.

An appellate court is an adju-

cative body. Its function is to review decisions of lower courts for errors of law, fatal defects in process, or factual conclusions not supported by the record. This is very different from the legislative process.

It is a disciplined and narrowly focused inquiry limited to the particular case. Each case is decided within the framework of a larger body of developed jurisprudence. In fact, appellate courts are careful to distinguish between the types of decisions that are appropriate for the courts and those that more properly left to the legislature.

Cost of the Legislature
The willingness of the Post Convention Committee to perpetrate deceptions in pursuit of approval of their amendments is quite disturbing. They contend that members will have "30% more funds per legislator" than they do now. The truth is that the convention proposes \$70,000 per member.

Under the current ceiling, each house has \$1.4 million. That works out to \$77,778 for each of the 18 members of the House, and \$155,556 for each member of the Senate. Clearly, the amendment proposes a cut, not an increase, for members in both houses.

Of course, I know the committee will contend that their claimed 30% increase is accurate, on the grounds that it is computed by dividing the total budget for the legislature by the smaller number of members. That argument nicely demonstrates the verity that "figures never lie, but liars figure."

The committee's phrasing implies that the 30% increase is in the funds available to each member. I have already demonstrated how the restructuring of the legislative budget proposed by the Third Con-Con will make it difficult for the members to be the unique, independent decision-makers the voters elect them to be.

To imply, as the Post Convention Committee has, that the increase in the budget for the legislative bureau can be ascribed to the members and described as increase in the funds available to each member is the plainest kind of self-serving distortion.

Finally, the committee keeps emphasizing that we have to be conscious of the cost of government, suggesting that the changes in the legislative branch are needed for this reason. The fact is that in the last three years the executive branch budget has risen by more than 40%. During the same period the legislative budget ceiling has remained unchanged.

If there is a problem with the cost of government, if clearly isn't in the legislature. Yet the convention's complete rewrite of the Constitution contains not a single word about reining in executive spending.

This piece appears in the *Variety* as a guest column.



LETTERS TO THE EDITOR

Please stop the federal bullying

Dear Editor:

I would like to voice my concerns with regards to Mr. Stayman's position that the CNMI impose the US minimum wage standards and relinquish CNMI control for immigration. As for minimum wage, it has taken the US over 200 years under their own democracy to attain their current minimum wage level and expect the CNMI to impose these same standards in the short time under our own constitution. Why is it that during the Trust Territory administration the US was paying local workers less than the prevailing US minimum wage. Does the US Government have a double standard and also exempt from the rules they are trying to impose on us? It is apparent the Interior Dept. is blind to our situation here, they seem ignorant of the fact that we are located in the Asia Hub and our real competition are third world overpopulated countries that have no real minimum wage to deal with. If the CNMI is

to compete with our real neighbors, in both the tourism and manufacturing, then in order for us to maintain a degree of competition we should devise our own wage scale.

As for immigration, we seem to be making headlines in the US about our labor problems. Well everybody wake up and welcome to the 20th century, I have seen more than a few documentaries about slave labor and illegal sweat shops mostly in California and New York, the two largest House of Representative Districts in the US and I am sure there are many more states that have similar immigration and slave labor problem. We are easy targets for these congressmen to pick on us since we have no representation in either the House or Senate. I say let these Congressmen and Senators clean their own house and address their own immigration and slave labor problems before they make any attempts to clean ours 10,000 miles away. They would like to choke our fledgling tourism indus-

try by putting a ceiling on alien hire. The CNMI has many developers proceeding with their hotels and resorts and anyone would tell you it takes about 2-3 people per room for a first class hotel. We now have under construction about 2,000 hotel rooms on Saipan alone. We are expecting another 1,000 rooms on Tinian in the very near future. How are we expected to support these projects upon completion if we limit the number of workers allowed to enter the CNMI.

I feel the US Government is trying to put a choke hold on the CNMI and make us even more dependent of his purse. The real intent of the Covenant Agreement allows the CNMI self respect and through control of it's immigration to become self sufficient. I apologize for such a lengthy letter, however I felt the need to speak up and not allow the US to just bulldog their way through.

Sincerely,
PATRICK LEON GUERRERO

Kudos for lighting up the marina

Dear Editor:

THROUGH the initiative of Congressman Heitz Hofschneider and the hard working guys at CUC, we at Smiling Cove Marina, are now lit!! Half a year had passed to get the marina lit and finally it's a reality.

Congressman Hofschneider, it gives me great pleasure to "thank you" and the CUC team for a job that happened within two weeks that otherwise spanned months.

Your help indeed transformed the marina from a dark and dreary area into a place that is proud to be part of our National Parks.

The Marina Management is working towards further enhancing the area with security measures, proper waste collection, replacing of several damaged slip panels and posted advisory/regulatory signs. Water wash down is underway for the convenience of marina boat tenants and users of the ramp. The

Division of Parks & Recreation are doing a great job of maintaining the grounds aesthetically.

We still have more to do at the marina. Without the intervention of a "man of action" the Honorable Congressman Hofschneider, we would still be otherwise "in the dark."

Si Yous Maase ginen todos ham,

PAUL HAMILTON7

To the one who stole eye device at CHC

Dear Editor:

WE are writing today to request for your help. The Emergency Department of the Commonwealth Health Center has been the victim of several thefts over the past year. We have lost many pieces of equipment used at the bedside to examine the eyes and ears of our patients (two otoscopes, three ophthalmoscope heads), a specialized light used to examine skin and nails (a Wood's Lamp) and most

recently the binocular eyepiece of a very expensive eye exam machine. This last theft has left the Emergency Department without the tools to diagnose a large range of eye infections and injuries. Replacement will cost about a thousand dollars and will take months.

The Emergency Department is here to serve the people of the CNMI. We provide vital care on a treatment to sick and injured people 24 hours a day, 365 days of the

year. We see almost 24,000 people each year. Unlike most Emergency Departments in North America, we allow the relatives of patients being treated to come into the department for visits, though we try to limit visitors to one at a time so that the small rooms don't become crowded and other patients are not inconvenienced. Often, there is expensive equipment and supplies in these rooms. We depend on the good

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by Bernard Zimmerman and Grace Suarez

ConCon commentary

(Bernard Zimmerman is a federal judge magistrate for the Northern District of California and former constitutional law teacher and law firm partner. Grace Suarez is the Head of Research for the Public Defenders Office in San Francisco. Both served as unsalaried counsel for the Con-Con.)

This is one of a series of commentaries on how the Constitutional Convention actually worked, as seen by two of the legal team who had not been in the CNMI before.)

The Pre-Convention Process
We joined the legal team for the Constitutional Convention in May 1995 on a pro bono basis as did Howard Willens and Deanne Siemer. We were soon joined by the Honorable Jose S. Dela Cruz, who had just retired as Chief Justice of the CNMI Supreme Court, Mays B. Kara, counsel for the Legislature, and John A. Mangiona, a lawyer from Rota.

We then rounded out the legal team with additional law students and support staff. Our ability to produce accurate daily transcript, which assured the delegates that their views would be faithfully recorded, proved crucial to the Convention's success. Les Miller and Michelle Trahan, two experienced court reporters from California, brought real time court reporting to Saipan. They worked extended hours for edited notes

and the transcript of the previous day was on the desk of every delegate the next morning. The public and the press had access to the record of the Convention on a next-day basis, just as the delegates did.

Another task was to devise a set of rules for the Convention. The rules generally followed parliamentary procedure. A key rule required a two-thirds majority vote of the delegates to pass any proposed amendment. The two-thirds requirement (18 out of 27 delegates), assured the geographical minority, I to use a term coined by a delegate from Rota, that it could defeat a proposed amendment with the support of but one Saipanese delegate.

The Pre-Convention Committee also began to focus on the political and legal issues the Convention would tackle. First, it developed a process for the delegates to submit

proposals for amendments and encouraged delegates to submit their proposals early by setting a cut-off date. Beginning at 8 a.m. every morning during May, counsel had office hours at which delegates could individually discuss their ideas with counsel. Most delegates attended. Some brought only thoughts; others had handwritten or typed notes; still others detailed proposals obviously drafted by private counsel.

After we had refined the idea, counsel would draft and number the proposal and return it to the delegate. Once signed, it was deemed introduced. By the start of the Convention, almost 300 proposals had been processed and all but a handful of delegates had submitted at least one proposal.

The Pre-Convention Committee sponsored several well-attended